



Security Council

Distr.: General
22 April 2003
English
Original: Russian

Security Council Committee established pursuant to resolution 1267 (1999)

Note verbale dated 22 April 2003 from the Permanent Mission of the Russian Federation to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the Russian Federation to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) and has the honour to transmit the report of the Russian Federation prepared in accordance with paragraph 6 of Security Council resolution 1455 (2003) of 17 January 2003 (see annex).



Annex to the note verbale dated 22 April 2003 from the Permanent Mission of the Russian Federation to the United Nations addressed to the Chairman of the Committee

Report of the Russian Federation to the Security Council Committee established pursuant to resolution 1267 (1999) submitted in accordance with paragraph 6 of Security Council resolution 1455 (2003)

In accordance with paragraph 6 of Security Council resolution 1455 (2003), which calls for the submission of updated reports on the steps taken to improve the implementation of the measures imposed by paragraph 4 (b) of resolution 1267 (1999), paragraph 8 (c) of resolution 1333 (2000) and paragraphs 1 and 2 of resolution 1390 (2002), the Russian Federation has the honour to transmit the following information to the Security Council Committee established pursuant to resolution 1267 (1999).

The resolutions referred to above have been implemented in the Russian Federation by means of presidential decrees:

Resolution 1267 of 15 October 1999 — Decree No. 786 of 5 May 2000

Resolution 1333 of 19 December 2000 — Decree No. 266 of 6 March 2001

Resolution 1390 of 16 January 2002 — Decree No. 393 of 17 April 2002

Under the terms of Federal Act No. 130 of 25 July 1998 "On measures to combat terrorism", the agencies directly involved in counter-terrorism activities are the Federal Security Service, the Ministry of Internal Affairs, the Ministry of Defence, the Foreign Intelligence Service, the Federal Border Service and the Federal Protection Service.

Currently, coordination among the agencies involved in counter-terrorism is ensured by the Federal Counter-Terrorist Commission, established by decision No. 1302 of the Government of the Russian Federation, of 6 November 1998.

Coordination has also been achieved through the establishment of an interdepartmental conference to develop measures to address the consequences of the terrorist attack on the concert hall of the Moscow ball-bearing factory (Moskovsky podshipnik) and eliminate the circumstances which made the attack possible. It comprises the heads of the Ministry of Internal Affairs, the Federal Security Service, the Federal Tax Investigation Service, the Ministry of Defence, the Ministry of Emergency Situations, the Ministry of Taxation and Revenue, the Ministry of Health, the Ministry of Justice, the Ministry of Economic Development and Trade, the Financial Monitoring Committee of the Ministry of Finance and the Central Bank of the Russian Federation. The conference is headed by the first deputy minister and the chief of the Criminal Investigation Service of the Ministry of Internal Affairs.

The interdepartmental conference has eight working groups dealing with the practical issues of eliminating the conditions which enable terrorist and extremist activity to take place, especially conditions which make it possible to channel funds to Chechen and other ethnic criminal groups formulating plans to destabilize the situation in the country. The working groups organize and oversee the network of

measures aimed at cutting off the funding of extremists through businesses, banks and financial institutions, tracking down individuals who participated in committing or are planning terrorist acts, combating illegal migration, monitoring the safety of weapons explosives and ammunition and preventing their illicit trade and improving the protection of critical or environmentally hazardous industries, enterprises using radioactive or chemical substances, and other essential services and transport.

In order to further develop the legal basis for intensifying the fight against terrorist crimes and the financing of terrorist activities and providing effective protection for victims, witnesses and other individuals involved in criminal proceedings, the following legal acts have recently been promulgated and implemented:

- International Convention for the Suppression of the Financing of Terrorism (New York, 9 December 1999), ratified by Federal Act No. 88 of 10 July 2002 "On the ratification of the International Convention for the Suppression of the Financing of Terrorism".
- Federal Act No. 62 of 31 May 2002 "On citizenship of the Russian Federation" (entered into force on 1 July 2002); this Act sets out the principles regulating citizenship of the Russian Federation and the rules governing relations connected with that citizenship. It establishes the basis, conditions and procedure for acquiring or losing citizenship.
- Federal Act No. 103 of 24 July 2002 "On additions to the legislative acts of the Russian Federation" (in the area of enhancement of counter-terrorism): supplements article 205, section 1 of the Criminal Code of the Russian Federation by establishing criminal responsibility for inciting others to commit terrorist crimes, encouraging others to participate in the activities of terrorist organizations, and supplying arms or training for the commission of terrorist acts and also for financing terrorist acts or terrorist organizations. Moreover, under article 2 of the same Federal Act, article 205, section I of the Criminal Code applies to the jurisdiction of the organs of the Federal Security Service.
- Federal Act No. 114 of 25 July 2002 "On the prevention of extremist activities": aims to protect citizens' and individuals' rights and freedoms and the foundations of the constitutional order, to safeguard the integrity and security of the Russian Federation, to determine the legal and institutional foundations for combating extremist activity and to establish accountability for carrying out such activity.
- Federal Act No. 112 of 25 July 2002 "On the introduction of amendments and additions to the legislation of the Russian Federation in connection with the adoption of the Federal Act 'On the prevention of extremist activities'" (in the area of harmonizing the provisions of the Code of Civil Procedure of the Russian Soviet Federal Socialist Republic, the Act of the Russian Federation on the mass media, the Federal Act on public associations, the Federal Act on weapons and other instruments with the norms of the Federal Act on countering extremist activity).
- Federal Act No. 131 of 30 October 2002 "On amendments and additions to the Federal Act on the prevention of the legalization of funds obtained by criminal means (money-laundering)": sets up a State mechanism to monitor financial flows of criminal origin. The Federal Act also closes a legal loophole in the

area of State prevention of the financing of terrorism. To those ends, it widens the scope of legal regulation introduced by the Federal Act on the prevention of the legalization of funds obtained by criminal means (money-laundering).

- Federal Act No. 3 of 10 January 2003 "On the ratification of the Shanghai Convention on combating terrorism, separatism and extremism".
- Federal Act No. 7 of 10 January 2003 "On amendments and additions to the Federal Act on the procedure for entry into and departure from the Russian Federation" (not yet in force), specifying certain provisions relating to border formalities on entry into and departure from the Russian Federation and determining types of visas and the grounds and procedures for issuing and extending them.

In accordance with resolutions 1267 (1999) and 1390 (2002), the Security Council Committee established pursuant to resolution 1267 (1999) included in the list of individuals and entities subject to the measures contained in these resolutions the following Chechen groups: the Islamic International Brigade, the Special Purpose Islamic Regiment and the Riyadus-Salikhin Reconnaissance and Sabotage Battalion of Chechen Martyrs. This decision was an acknowledgement by the United Nations of the terrorist nature of the activities of these formations and points to the existence of direct and indisputable links between them and the al-Qa'idah international terrorist network, Osama bin Laden and the Taliban.

It should also be noted that the humanitarian aid association Madli is operating in the territory of Georgia — Madli is an affiliate of the international "charitable" fund Benevolence International Foundation, which is included in the list of entities subject to the measures contained in Security Council resolution 1390 (2002). The Georgian authorities, however, have refused to freeze the bank holdings of its affiliate, which may be considered a violation of the requirements of the financial embargo imposed by the Security Council on the Taliban, al-Qa'idah and their accomplices.

On 26 November 2002, in the cities of Kazan and Moscow, a set of measures was implemented to suppress the anti-Russian activities of one of the emissaries of the Egyptian terrorist group Gamaa Islamia, the Egyptian citizen Ali Arif Abdelaziz Abdelmohsin, and his closest associate Akhmed Nasser Akhmed Nasr-El Din in the context of the Plan of joint operational-investigative measures of the Chief directorate for combating organized crime of the Criminal Investigation Service of the Ministry of Internal Affairs and Department 2 of the Federal Security Service to suppress the activities of supporters of the international Islamic extremist organization Muslim Brothers in the territory of the Russian Federation.

As a result of the operational-investigative measures, these persons were removed from the Russian Federation.

The Chief directorate for combating organized crime of the Criminal Investigation Service of the Ministry of Internal Affairs has gathered and transmitted to the Office of the Procurator-General of the Russian Federation materials pointing to the criminal activities of the Russian citizens Ravil Shafievich Gumarov, Rasul Vladimirovich Kudaev, Timur Ravilevich Ishmuratov, Airat Nasimovich Vakhitov, Rustam Salikhyanovich Akhmyarov, Ravil Kamilevich Mingazov, Ruslan Anatolevich Odizhev and Shamil Ravirovich Khazhiev, who

agreed, in exchange for material reward, to participate as mercenaries in the armed conflict in the territory of Afghanistan on the side of the Taliban.

The aforementioned citizens were detained in the vicinity of the city of Mazar-e-Sharif in November 2001 in the course of the counter-terrorist operation conducted in the territory of Afghanistan by the armed forces of the United States of America and are currently being held at the military base at Guantanamo, Cuba.

The department of the Office of the Procurator-General of the Russian Federation responsible for the investigation of crimes relating to federal security and inter-ethnic relations in the Northern Caucasus is conducting criminal case No. 11058, which was instituted on 29 March 2003 on the basis of evidence of offences against detainees envisaged in article 322, article 359, paragraph 3, and article 210, paragraph 2, of the Criminal Code of the Russian Federation.

In addition to the aforementioned information, the Russian Federation has at its disposal data enabling the inclusion in the consolidated list of the Security Council Committee established pursuant to resolution 1267 (1999) of the following persons, who are closely associated with the Taliban and the al-Qa'idah international terrorist organization:

1. Moulavi Akhtar Mokhammad Usmani — former commander of the Second Army Corps of the Taliban regime. Usmani's detachments are operating in Panjvai district, which is located 35-37 kilometres south-west of the city of Kandahar. Apart from local Pashtuns, his unit includes around 35 foreigners, among them Arabs, Chechens, Uzbeks and Pakistanis. The task of Usmani's armed detachments is to perpetrate terrorist acts against subdivisions of the coalition forces.
2. Rais Abdul Bakhid — field commander. Armed detachments led by him are active in Bagran district, Kandahar province. Bakhid has regular contact with the Taliban leader M. Omar.
3. M. Oman — Uzbek by birth, member of the Islamic Party of Turkestan (former Islamic Movement of Uzbekistan). Formed an armed Uzbek detachment of 15 men in the Kakhgak Bana district of the city of Peshawar. Oman has links to the Taliban through the former chief of staff of the Taliban leader Nasyr Akhmad.
4. Abdulgani Bat — leads several fighters who trained in one of the al-Qa'idah chemical laboratories in south-east Afghanistan. The tasks of the group headed by him include the commission of terrorist acts using chemical substances against a number of foreign embassies in Kabul.

The Russian Federation is taking decisive steps to combat the financing of terrorism in accordance with Security Council resolutions 1267 (1999), 1333 (2000) and 1390 (2002).

The Federal Act "On the prevention of extremist activities" (No. 114 of 25 July 2002) was adopted. Under this Act, a public or religious association or other organization may be liquidated, and the activities of a public association which is not a body corporate may be prohibited by decision of a court, on the basis of an application by the Procurator-General of the Russian Federation or by a procurator under his authority and also on the basis of an application by a federal executive body in the field of justice or a territorial organ thereof.

In the event that the activities of public or religious associations are stopped, they are barred from using bank deposits except to pay amounts owed in connection with their economic activities, compensation for losses (damages) caused by their actions and taxes, dues or fines, and to make payments under contracts of employment.

The Federal Act "On the introduction of amendments and additions to legislation of the Russian Federation in connection with the adoption of the Federal Act 'On the prevention of extremist activities'" (No. 112 of 25 July 2002) was adopted. Pursuant to the Act, amendments were made to a number of federal laws, including the Federal Act "On the prevention of the legalization of funds obtained by criminal means (money-laundering)". Under that Federal Act, operations involving funds or other assets subject to compulsory monitoring include operations where at least one of the parties is an extremist organization, or an entity owned or controlled, directly or indirectly, by such organization or individual, or an individual or entity acting on behalf of or at the direction of such organization or individual.

Taking into account the relevant requirements of the Security Council resolutions, amendments have been drafted and introduced in the Federal Act "On the prevention of the legalization of funds obtained by criminal means (money-laundering) and the financing of terrorism"; the amendments entered into force on 3 January 2003 (Federal Act No. 131 of 30 October 2002). These changes, inter alia, allow the legal mechanisms of the Federal Act to be used to combat terrorist financing.

Thus, in accordance with these amendments, institutions conducting operations that involve funds or other assets are obliged to suspend the operations for two working days if at least one of the parties is an organization or individual in respect of whom there is information concerning their participation in extremist activity, or an entity owned or controlled, directly or indirectly, by such organization or individual, or an individual or entity acting on behalf of or at the direction of such organization or individual.

An entity or individual may be included in this list, inter alia, on the basis of the lists of entities and individuals associated with terrorist organizations or terrorists compiled by the international organizations combating terrorism or by the bodies authorized thereto by those organizations, where such lists are recognized by the Russian Federation. These lists are disseminated among the institutions conducting operations that involve funds or other assets. Information on operations must be transmitted to the responsible organ, which issues a decision suspending these operations for a period of up to five days if it deems the information received concerning the results of the preliminary check to be well-founded.

Subsequently, this information must be transmitted to the law enforcement agencies. In order to ensure execution of a judgement of a court with respect to a civil action, other seizure of property or possible confiscation of property, the procurator or, with the consent of the procurator, the person conducting the initial inquiry or pre-trial investigation may apply to the court for the seizure of the property of the suspect, the accused person or the persons bearing material responsibility for their actions (Code of Criminal Procedure, art. 115). Such application must be considered by a judge in person within no more than 24 hours of its receipt.

The Federal Act "On the introduction of amendments and additions to legislation of the Russian Federation" (No. 103 of 24 July 2002) introduced in the Criminal Code article 205.1, which establishes responsibility for the involvement of others in committing crimes of a terrorist nature and other facilitation of such crimes, including the financing of an act of terrorism or a terrorist organization, and stipulates, as a penalty, deprivation of liberty for four to 15 years with or without confiscation of property.

Decree No. 1263 of the President of the Russian Federation of 1 November 2001 "On the organ empowered to prevent the legalization of funds obtained by criminal means (money-laundering)" established the Financial Monitoring Committee of the Russian Federation, which is the federal executive body empowered to take measures to prevent the legalization of funds obtained by criminal means (money-laundering) and to coordinate activities of other federal executive bodies in this area.

In accordance with article 6 of the Federal Act "On measures to combat terrorism" (No. 130 of 25 July 1998) and Decree No. 660 of the Government of the Russian Federation of 22 June 1999 (version of 4 April 2002), the Financial Monitoring Committee is the federal executive body participating, within its terms of reference, in the prevention, detection and suppression of terrorist activities.

In accordance with the regulations on the Financial Monitoring Committee of the Russian Federation, approved by decree No. 211 of the Government of the Russian Federation of 2 April 2002 (version of 6 February 2003), the Financial Monitoring Committee has the following tasks in the area of combating the financing of terrorism:

- Collection, processing and analysis of information, documents, intelligence and other materials about operations (transactions) involving funds or other assets which are subject to monitoring in accordance with the legislation of the Russian Federation;
- Establishment of a unified information system and maintenance of a federal database;
- Transmission of relevant information to the law enforcement agencies in accordance with their areas of competence where there are adequate grounds indicating that an operation (transaction) that involves funds or other assets is linked with the financing of terrorism;
- In accordance with the Russian Federation's international treaties, cooperation and exchange of information with the competent bodies of foreign States in the area of combating the financing of terrorism;
- Representation of the Russian Federation, under the established procedure, in international organizations during consideration of issues of combating the financing of terrorism.

The authority vested in the Financial Monitoring Committee in the area of combating the financing of terrorism in accordance with Federal Act No. 131 of 30 October 2002 has created a legal basis for implementation of the mechanism for tracking and halting operations involving funds or other assets which are carried out with a view to supporting terrorist activity.

The Financial Monitoring Committee, in terms of its powers and the functions it carries out, meets the requirements laid down for financial intelligence units and corresponds to the definition of a financial intelligence unit formulated by the Egmont group. In June 2002 the Financial Monitoring Committee of the Russian Federation was admitted to the Egmont group, and from mid-August 2002, it joined the closed channel for the exchange of information operating under the auspices of the group.

In its work, the Financial Monitoring Committee actively cooperates with the financial intelligence units of other countries. At present, agreements on cooperation in the sphere of preventing the legalization of funds obtained by criminal means (money-laundering) have been concluded with the financial intelligence units of the Czech Republic, Belgium, Italy, Panama and France. Currently, a number of investigations are under way, on the basis of materials sent abroad. Under one of them, which has the external characteristics of financing of international terrorism, work is being conducted jointly with the Justice Department of the United States of America. This concerns the international Islamic charitable fund "Benevolence International Foundation", which has its headquarters in Chicago, and is included in the Committee's list.

The Financial Monitoring Committee plans in future to expand the mutual exchange of information, including warnings, with the corresponding bodies of other countries concerning the activities of terrorist organizations and sources of their financing.

In accordance with paragraph 7 of the Federal Act, in the area of combating the financing of terrorism, institutions conducting operations that involve funds or other assets are required to identify their customers and also confirm in writing and provide to the competent body no later than the working day following the day on which the operation is carried out the following information about operations involving funds or other assets which are subject to compulsory monitoring:

- The type of operation and the basis for carrying it out;
- The date of completion of the operation involving funds or other assets, and also the amount for which it was carried out;
- The information necessary for identifying an individual who is carrying out the operation involving funds or other assets (data on passport or other document confirming identity), the taxpayer's identification number (if any), and the address of his place of residence or stay;
- The title, taxpayer's identification number, registration number, place of registration and the address of a legal entity carrying out an operation involving funds or other assets;
- The information necessary for identifying an individual or legal entity under whose instructions or on whose behalf the operation involving funds or other assets is carried out, the taxpayer's identification number (if any), and the address of the place of residence or stay of the individual or legal entity;
- The information necessary for identifying a representative of an individual or legal entity which is carrying out an operation involving funds or other assets on behalf of another person under the authority based on a power of attorney, law or instrument of a competent State body or local self-government body,

and the address of the place of residence of the representative of the individual or legal entity;

- The information necessary for identifying a client under the operation involving funds or other assets and his representative, including the taxpayer's identification number (if any) and the address of the place of residence or place of stay of the client and his representative, if envisaged in the rules for carrying out the operation in question;
- Provide to the competent body, at its written request, the information indicated in subparagraph 2 of this paragraph, both in relation to operations subject to compulsory monitoring, and in relation to the operations indicated in paragraph 3 of this article.

In accordance with article 7, paragraph 2 of the Federal Act, in order to prevent the financing of terrorism, institutions must draw up internal monitoring rules and programmes for their implementation, designate special officials responsible for compliance with the rules and implementation of the programmes, and also undertake other internal organizational measures for these purposes.

The internal monitoring rules of an institution conducting operations that involve funds or other assets must include a system for record-keeping, a system of data confidentiality guarantees, skills training for supervisors, and also criteria for exposing and identifying unusual transactions, taking into account the particular characteristics of the work of the institution.

Institutions conducting operations that involve funds or other assets in accordance with internal monitoring rules must record information received as a result of the application of the rules and the implementation of programmes for carrying out internal monitoring, and maintain its confidentiality.

The grounds for the recording of information are:

- Obscure or unusual nature of a transaction, with no obvious economic value or legal purpose;
- Inconsistency of the transaction with the goals of the activity of the institution established in the constituent documents of that institution;
- Repeated execution of operations or transactions, the nature of which gives grounds for believing that their goal is to evade the compulsory monitoring procedures envisaged in this federal act;
- Other circumstances giving grounds for believing that transactions are carried out for the purposes of legalizing funds obtained by criminal means (money-laundering), or the financing of terrorism.

Documents confirming this information, and also copies of documents necessary for personal identification, must be kept for at least five years.

Credit institutions are prohibited from opening accounts for (accepting deposits from) anonymous owners, that is to say, without submission by the individual or legal entity opening the account (making the deposit) of the documents necessary for identification. Moreover, credit institutions have the right to refuse to conclude bank account agreements (deposit agreements) with individuals or legal entities in the event that the entity concerned does not provide documents

confirming the specified information, or provides unreliable documents, and also in cases where there is information received in the prescribed manner concerning participation of the entity in terrorist activities.

Institutions also have the right to refuse to carry out the instructions of clients to perform operations for which the necessary supporting documents have not been submitted.

Suspension of operations and refusal to perform operations cannot give rise to civil liability of institutions conducting operations involving funds or other assets on grounds of violation of the conditions of the relevant agreements.

These provisions (with the exception of those determined by the characteristics of banking activity) on compulsory monitoring, client identification and transmission of information about suspicious transactions apply to professional brokers in the securities market, insurance and leasing companies, federal postal bodies, pawn shops, institutions engaged in the consolidation, purchase and sale of precious metals and precious stones, articles of jewellery made from them and scrap from such articles, institutions maintaining betting and bookmaking offices, and also conducting lotteries and other games in which the organizer raffles a prize fund among the participants, including by electronic means, and also institutions engaged in the management of investment funds or non-State pension funds.

In November 2002, proposals by the Federal Security Service of the Russian Federation to establish an interdepartmental and inter-State information system and database on counter-terrorism were considered and supported by the Government of the Russian Federation.

In order to prevent the commission of acts of terrorism, including through early warning to other States about terrorists' movements and plots, operational information is collected and transmitted to the Ministry of Internal Affairs on an ongoing basis in order to facilitate work with foreign partners on specific cases of support by individuals and legal entities for international terrorism, terrorist groups and organizations.

The Russian Federation pays special attention to inter-State cooperation in the area of strengthening border control on the Afghan border in order to prevent the entry into its territory or transit through it of persons included in the consolidated list.

In implementation of Security Council resolution 1455 (2003), the Federal Border Service of the Russian Federation carries out the following measures:

1. Together with the federal executive bodies concerned, it reviews the question of providing assistance to the border department of Afghanistan (the Ministry of Border Matters, Tribes and nationalities) in preparing Afghan soldiers for short-term courses at the training centre run by the border group from the Russian Federation's Federal Border Service in Tajikistan, and also training of national border staff in higher educational institutions of the Federal Border Service of the Russian Federation.
2. Representatives of the Federal Border Service of the Russian Federation in Kabul are continuing to provide advisory assistance in establishing Afghanistan's national border structures and creating a system for protection of the State border.

3. The implementation of measures for the development of cooperation and liaison with the border protection bodies of Afghanistan operating on the Tajik-Afghan border is continuing. This work is aimed at maintaining the border regime, and also removing and destroying weapons and ammunition belonging to former gang formations of the United Tajik Opposition and stored in the Afghan border area in order to prevent their further use by individuals and organizations linked with international terrorism.
4. Together with the Ministry of Internal Affairs, it carries out work aimed at ensuring a Russian border presence on the Tajik-Afghan border as an important factor in curbing drug trafficking and the activities of terrorist organizations on the southern boundaries of the member States of the Commonwealth of Independent States.
5. In order to create a legal basis for Russian-Afghan border cooperation, work is continuing on the conclusion of an interdepartmental Russian-Afghan protocol on cooperation in border issues.

The conclusion of the protocol will establish the procedure for Russian-Afghan cooperation in border issues, including the effective use of existing capacities for combating terrorism and the smuggling of narcotic drugs and halting other illegal actions on the Tajik-Afghan border.



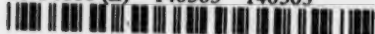
Security Council

Distr.: General
23 April 2003
English
Original: Spanish

Security Council Committee established pursuant to resolution 1267 (1999)

Note verbale dated 22 April 2003 from the Permanent Mission of Argentina to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the Argentine Republic to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) and has the honour to transmit herewith the report of the Argentine Republic on the implementation of Security Council resolution 1455 (2003).



Annex to the note verbale dated 22 April 2003 from the Permanent Mission of Argentina to the United Nations addressed to the Chairman of the Committee

Report of the Argentine Republic on the implementation of Security Council resolution 1455 (2003)

In accordance with resolution 1390 (2002), the Argentine Republic submitted a report to the Security Council Committee established pursuant to resolution 1267 (1999) — hereinafter referred to as “the Committee” — which was issued as document S/AC.37/2002/22 dated 16 April 2002.

In addition to that report, and in accordance with the new request made by the Committee pursuant to Security Council resolution 1455 (2003), Argentina is submitting this updated report, providing the information requested by the Committee in its “guidance for reports”.

I. Introduction

1. Please provide a description of activities, if any, by Usama bin Laden, Al-Qaida, the Taliban and their associates in your country, the threat they pose to the country and the region, as well as likely trends.

No activities by such individuals or entities have been detected in the territory of the Argentine Republic. Similarly, there is no evidence of activities by groups directly linked to them.

One of Argentina’s concerns has been to prevent the possible financing of terrorist activities from the so-called “tri-border” area between Argentina, Brazil and Paraguay.

To that end, Argentina is undertaking preventive operational activities with a view to detecting activity by groups or entities linked to terrorist organizations.

It should also be noted that the Argentine Ministry of Foreign Affairs has held bilateral working meetings to discuss matters relating to cooperation in the fight against terrorism with, among others, Canada, China, the European Union, Israel, the Russian Federation and Tunisia. The topics discussed have included the financing of terrorism, cyberterrorism and bioterrorism, maritime and port security, transfer of technology, border control and the implementation of rapid response mechanisms.

II. Consolidated list

2. How has the Committee’s list been incorporated within your legal system and your administrative structure, including financial supervision, police, immigration control, customs and consular authorities?

As explained in the previous report, the Security Council resolutions establishing sanctions are incorporated in the Argentine internal order through decrees issued by the national executive power. The aim is to give the resolution the public exposure needed to see it implemented by the State agencies with responsibilities in the areas it covers and to make it binding on natural and legal persons under Argentine jurisdiction.

Security Council resolutions 1267 (1999), 1333 (2000) and 1390 (2002), concerning sanctions against the Taliban regime and Al-Qaida, have been incorporated through decrees Nos. 253/00, 1035/01 and 623/02, the texts of which have been transmitted to the Committee. In the case of the recent resolution 1455 (2003), no special internal act was considered necessary, since the resolution does not directly involve the rights and obligations of individuals under Argentine jurisdiction.

The aforementioned decrees provide that the list of individuals and entities prepared by the Committee shall be updated through resolutions of the Ministry of Foreign Affairs, International Trade and Worship, which are published in the *Official Gazette* of the Argentine Republic. To date, this Ministry has adopted resolutions MRECIC 2973/01 (26 September 2001), 3165/01 (11 October 2001), 3397/01 (8 November 2001), 3711/01 (11 December 2001), 623/02 (18 April 2002), 839/02 (23 May 2002), 1847/02 (7 October 2002) and 2274/02 (29 November 2002). The most recent updated list issued by the Committee has been incorporated in resolution MRECIC 764/03 of 14 April 2003.

The publication of the lists in the *Official Gazette* ensures that the various national agencies and departments, together with the provinces and municipalities, take note of the successive listings and take the necessary steps within the scope of their competences. These resolutions can be consulted on the Internet at <http://infoleg.mecon.gov.ar/>.

The lists can also be found on the web sites of the various agencies concerned, such as the Central Bank of the Argentine Republic (www.bcra.gov.ar), the National Securities Commission (www.cnv.gov.ar) and the Financial Intelligence Unit (www.uif.gov.ar).

3. Have you encountered any problems with implementation with regard to the names and identifying information as currently included in the list? If so, please describe these problems.

To date, there have been no cases in the Argentine Republic involving the practical application of measures involving the individuals and entities included in the list.

4. Have your authorities identified inside your territory any designated individuals or entities? If so, please outline the actions that have been taken.

See item 3.

5. Please submit to the Committee, to the extent possible, the names of individuals or entities associated with Usama bin Laden or members of the Taliban or Al-Qaida that have not been included in the list, unless to do so would compromise the investigations or enforcement actions.

The Argentine Republic is not aware of the existence of individuals or entities associated with Usama bin Laden, the Taliban or Al-Qaida that have not been included in the list.

6. Have any listed individuals or entities brought a lawsuit or engaged in legal proceedings against your authorities for inclusion in the list? Please specify and elaborate, as appropriate.

See item 3.

7. Have you identified any of the listed individuals as nationals or residents of your country? Do your authorities have any relevant information about them not already included in the list? If so, please provide this information to the Committee as well as similar information on listed entities, as available.

No listed individual is an Argentine national or resident in the Argentine Republic. No information is available on individuals included in the Committee's list.

8. According to your national legislation, if any, please describe any measures you have taken to prevent entities and individuals from recruiting or supporting Al-Qaida members in carrying out activities inside your country, and to prevent individuals from participating in Al-Qaida training camps established in your territory or in another country.

In this regard, please refer to the report of the Argentine Republic on its implementation of Security Council resolution 1373 (2001) (S/2001/1340, pp. 9-11) and its supplementary report (S/2002/1023, pp. 12-13).

III. Financial and economic assets freeze

9. Please describe briefly:

- The domestic legal basis to implement the asset freeze required by the resolutions above;
- Any impediments under your domestic law in this context and steps taken to address them.

In this regard, please refer to the report of the Argentine Republic on its implementation of Security Council resolution 1373 (2001) (S/2001/1340, pp. 6-9) and its supplementary report (S/2002/1023, pp. 6-8 and 10-12).

Furthermore, it should be noted that in the Argentine legal system, a precautionary measure such as the freezing of funds must be ordered by the judiciary, which takes decisions concerning the freezing of funds on a case-by-case basis in the context of a criminal trial.

With regard to the sanctions provided for in Security Council resolutions 1267 (1999), 1333 (2000), 1390 (2002) and 1455 (2003), those resolutions define the material and personal scope of the internationally prohibited conduct, the freezing of funds being the consequence of a breach of, or failure to comply with, international norms established by a competent United Nations organ on the basis of the powers referred to in Chapter VII of the Charter. Consequently, the administrative authorities are empowered to proceed with the freezing, without prejudice to subsequent judicial control.

In its previous report to the Committee, the Argentine Republic referred to the emergency measures adopted to cope with the economic and financial crisis facing the country, which are now gradually being phased out without endangering the control mechanisms set up for the funds of individuals and entities listed by the Committee.

10. Please describe any structures or mechanisms in place within your Government to identify and investigate Usama bin Laden, Al-Qaida or Taliban-related financial networks, or those who provide support to them or

individuals, groups, undertakings and entities associated with them within your jurisdiction. Please indicate, as appropriate, how your efforts are coordinated nationally, regionally and/or internationally.

In this regard, please refer to item 2 above and to the report of the Argentine Republic on its implementation of Security Council resolution 1373 (2001) (S/2001/1340, pp. 4-6), and its supplementary report (S/2002/1023, pp. 13-14).

The Financial Intelligence Unit (UIF), the body responsible for the analysis, processing and transmission of information relating to the laundering of assets, acts as coordinator, with the support of liaison officers from the following bodies: the Ministry of Justice and Human Rights, the Ministry of Foreign Affairs, International Trade and Worship, the Programming Department for the Prevention of Drug Addiction and for Combating Drug Trafficking, the Central Bank of the Argentine Republic, the Federal Administration of Public Income, the National Securities Commission and the National Superintendency of Insurance. It also works with liaison officers from the National Directorate of the Immovable Property Register of the Federal Capital, the National Directorate of Immigration, the National Population Register, the National Directorate of Automobile Ownership and Chattel Mortgages, the Argentine Coastguard and the National Gendarmerie. These officers are responsible for facilitating consultations and the coordination of activities between the Financial Intelligence Unit and the bodies which they represent.

The Financial Intelligence Unit is also responsible for maintaining the Consolidated Information Register on the basis of data which the various agencies are required to submit to it and the information received as a result of its activities, in accordance with article 14, paragraph 3, of Act No. 25.246.

The Financial Intelligence Unit has signed agreements and memoranda of understanding providing for the exchange of information relating to the investigation of financial networks with other government agencies in Colombia, Spain and Panama. Negotiations are under way with Bolivia, Brazil, El Salvador, France, Guatemala, Israel, Italy and the Republic of Korea.

With regard to the so-called "tri-border" area, permanent, operational activities are being conducted to monitor the conduct of groups which are active in the area and may be linked in some way to terrorism and other related offences. The Tri-border Tripartite Command is currently implementing the Tri-border Security Plan drawn up in 1998. In March 2003, a meeting was held in Ciudad del Este, attended by delegations from the three countries with common borders, to study cooperation in the area.

At a meeting held in Buenos Aires on 17 and 18 December 2002, a "3+1" cooperation mechanism (involving Argentina, Brazil, Paraguay and the United States of America) was established. A specific cooperation mechanism, the "3+1" Financial Intelligence Group, was set up to monitor possible activities relating to the financing of terrorism in the tri-border area.

The Financial Intelligence Group will meet in Brasilia in May 2003 to continue implementing various cooperation initiatives to prevent the financing of terrorism.

11. Please convey the steps banks and/or other financial institutions are required to take to locate and identify assets attributable to, or for the benefit of, Usama bin Laden or members of Al-Qaida or the Taliban, or associated

entities or individuals. Please describe any "due diligence" or "know your customer" requirements. Please indicate how these requirements are enforced, including the names and activities of agencies responsible for oversight.

In addition to the information given in reply to earlier questions, it should be noted that the Central Bank of the Argentine Republic — the entity responsible for the supervision and oversight of financial entities — has issued resolution BCRA 16/03 of 15 January 2003, incorporating the lists distributed in communications B 6986, 7917, 7035, 7114, 7499 and 7585, and the list contained in resolution MRECIC 2274/02.

In accordance with communication B 7694 issued by the Central Bank, "Expansion of the scope of the provisions concerning the obligation to freeze assets and to report in relation to certain individuals linked to terrorist activities", information on the existence or non-existence of funds and other frozen financial assets, on the holders thereof and on entities owned or controlled directly or indirectly by such individuals or on their behalf, including funds derived or generated from property owned or controlled by those individuals or entities, must be communicated to the Central Bank, via a note addressed to the Special Operations Control Unit within three working days of receipt of the communication.

The National Securities Commission (CNV) — the agency which maintains the register of entities authorized to make public offerings of securities and establishes the relevant rules — has incorporated the resolutions issued by the Ministry of Foreign Affairs in chapter XXXI ("Transitional provisions") of the rules (NT2001) through resolutions CNV 375/01, 377/01, 390/02 and 431/02. These rules oblige entities subject to the Commission's oversight to comply with the measures relating to the freezing of funds and other assets.

Pursuant to Act No. 17,811, which established the National Securities Commission, institutions operating in the securities market exercise direct control over the brokers registered with them, verifying that the brokers are observing the required precautions and exercising disciplinary authority over them.

The Commission has ordered the self-regulated institutions subject to its oversight to implement measures to monitor the movement of funds and other financial assets in order to prevent such funds and/or assets from being made available to the persons or entities on the Committee's list.

The Financial Information Unit (UIF), by virtue of the powers conferred upon it by Act No. 25,246, article 21, paragraph (b), issued resolutions UIF 2, 3 and 4 of 25 October 2002 containing guidelines on the implementation of Act No. 25,246, article 21, paragraphs (a) and (b), on suspicious transactions and on means, opportunities and limits of compliance with the obligation to report them. These "objective standards" apply to the financial and foreign exchange system, the insurance industry and the capital market.

The preambular paragraphs of the above-mentioned resolutions refer to the 40 recommendations of the Financial Action Task Force on Money Laundering (FATF), the eight FATF special recommendations on terrorist financing, the 25 FATF criteria defining non-cooperative countries or territories, the Model Regulations of the Inter-American Drug Abuse Control Commission (CICAD) of the Organization of American States (OAS) and other international precedents in the matter of money-laundering.

12. Resolution 1455 (2003) calls on Member States to provide "a comprehensive summary of frozen assets of listed individuals and entities". Please provide a list of the assets that have been frozen in accordance with this resolution. This list should also include assets frozen pursuant to resolutions 1267 (1999), 1333 (2001) and 1390 (2002). Please include, to the extent possible, in each listing the following information:

- Identification(s) of the person or entities whose assets have been frozen;
- A description of the nature of the assets frozen (i.e., bank deposits, securities, business assets, precious commodities, works of art, real estate and other assets);
- The value of assets frozen.

See item 3.

13. Please indicate whether you have released pursuant to resolution 1452 (2002) any funds, financial assets or economic assets that had previously been frozen as being related to Usama bin Laden or members of Al-Qaida or the Taliban or associated individuals or entities. If so, please provide reasons, amounts unfrozen or released and dates.

See item 3.

14. Pursuant to resolutions 1455 (2003), 1390 (2001), 1333 (2000) and 1267 (1999), States are to ensure that no funds, financial assets or economic resources are made available, directly or indirectly, to listed individuals or entities or for their benefit, by nationals or by any persons within their territory. Please indicate the domestic legal basis, including a brief description of laws, regulations and/or procedures in place in your country to control the movements of such funds or assets to designated individuals and entities. This section should include a description of:

- The methodology, if any, used to inform banks and other financial institutions of the restrictions placed upon individuals or entities listed by the Committee, or who have otherwise been identified as members or associates of Al-Qaida or the Taliban. This section should include an indication of the types of institutions informed and the methods used.
- Required bank-reporting procedures, if any, including the use of suspicious transaction reports (STRs), and how such reports are reviewed and evaluated.
- Requirements, if any, placed on financial institutions other than banks to provide STRs, and how such reports are reviewed and evaluated.
- Restrictions or regulations, if any, placed on the movement of precious commodities such as gold, diamonds and other related items.
- Restrictions or regulations, if any, applicable to alternate remittance systems such as — or similar to — "hawala", as well as on charities, cultural and other non-profit organizations engaged in the collection and disbursement of funds for social or charitable purposes.

On this item, see the replies to previous items, as well as the report of the Argentine Republic on its implementation of Security Council resolution

1373 (2001) (S/2001/1340, p. 9) and its supplementary report (S/2002/1023, pp. 7, 8 and 14).

In addition, please note that the rules and procedures for submitting suspicious transaction reports are to be found in resolution UIF 2 in annex III entitled "Suspicious transaction report". The report is filed on a form that can be downloaded from the UIF web site, www.uif.gov.ar.

Moreover, the Financial Information Unit is developing other objective standards governing the movement of precious commodities, such as gold, diamonds and similar items.

IV. Travel ban

15. Please provide an outline of the legislative and/or administrative measures, if any, taken to implement the travel ban.

The operational measures undertaken by Argentina include permanent border controls at airports and river, sea and land borders; the National Directorate of Immigration has tightened entry controls on the individuals identified by the Committee.

With regard to the measures taken at the so-called "tri-border" area, see item 10 above and the report of the Argentine Republic on its implementation of Security Council resolution 1373 (2001) (S/2001/1340, pp. 10-11).

16. Have you included the names of the listed individuals in your national "stop list" or border checkpoint list? Please briefly outline steps taken and any problems encountered.

The National Directorate of Immigration has entered in its control list (the database on immigration bans) the ban on entry into the national territory by individuals on the Committee's list. The information entered can thus be accessed at all immigration control border points that have an electronic search system and used to prevent the individuals covered by Security Council measures from entering.

17. How often do you transmit the updated list to your border control authorities? Do you possess the capability of searching list data using electronic means at all your entry points?

The National Directorate of Immigration issues a daily restrictions report to the auxiliary immigration police, the Department of Branch Coordination and Interpol. The immigration ban on the individuals on the Committee's list is communicated by means of this daily report.

Except in the northern section, all localities have computer terminals used for electronic search of bans and/or restrictions on all individuals passing through immigration control.

18. Have you stopped any of the listed individuals at any of your border points or while transiting your territory? If so, please provide additional information, as appropriate.

To date no individual on the Committee's list has been identified at immigration control points.

19. Please provide an outline of the measures, if any, taken to incorporate the list in the reference database of your consular offices. Have your visa-issuing authorities identified any visa applicant whose name appears on the list?

The Argentine consular services have been instructed that they must consult the United Nations web site where the Committee's list is published before issuing visas. All Argentine consular offices have access to the Internet.

To date no consular office has reported having identified a visa applicant whose name appears on the Committee's list.

V. Arms embargo

20. What measures, if any, do you now have in place to prevent the acquisition of conventional arms and weapons of mass destruction (WMD) by Usama bin Laden, members of the Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them? What kind of export control do you have in place to prevent the above targets from obtaining the items and technology necessary for weapons development and production?

On this item, please see the report of the Argentine Republic on its implementation of Security Council resolution 1373 (2001) (S/2001/1340, pp. 24-25 and 33-34).

The National Commission for the Control of Sensitive Exports and Military Materiel (CONCESYMB), composed of the Ministry of Production, the Ministry of Defence, the Ministry of Foreign Affairs, the Institute of Scientific and Technical Research of the Armed Forces, the National Space Activities Commission, the National Atomic Energy Commission and the National Customs Administration, is responsible for granting export licenses and/or final-user or import certificates for materials subject to control as stipulated in the lists of materials in the annexes to Decree No. 603/92 and in supplementary regulations.

As the Decree provides, Argentina controls transfers of nuclear, chemical, bacteriological or missile-related materials, equipment, technology, technical assistance and/or services, as well as the export of materials that are essentially military in nature and conventional weapons. Thus, Argentina has incorporated in its national legislation the guidelines agreed upon in the international regimes to which it is a party for the non-proliferation of chemical, biological and nuclear weapons and missiles, as well as conventional weapons and small arms.

By Decree No. 1291/93, the export control regime established by Decree No. 603/92 was given the authority to grant certificates of operation and to set up a more flexible mechanism for periodically updating the lists of products subject to control.

To export sensitive materials, an export license must be obtained in advance from the Commission. In the case of exports of military materiel, the Commission first issues an opinion, and export authorization is then granted through an administrative act (which may be a ministerial resolution or an executive decree, depending on the amount of the transaction).

Decree No. 603/92 also provides for a "catch-all" system whereby the implementing body reserves the right to refuse to authorize the export of any

material, even if not included on the list annexed to the Decree, on the basis of the intended country of destination or the possibility that the material could be used for the production of weapons of mass destruction.

The non-proliferation policy applied in Argentina underscores the country's dependability from an international perspective and facilitates strict compliance with the requirements of the regimes for the control of sensitive technologies in the nuclear, chemical, bacteriological and missile fields. Applications for licenses are considered on a case-by-case basis, including a check on the license applicants and the final destination of the goods. If it is considered helpful, the assistance of the intelligence services is enlisted in determining the authenticity of the transaction.

At present, the Commission is reviewing all the control regulations with a view to improving the system governing sensitive exports and military materiel in general.

The General Customs Directorate is the body in charge of oversight and verification of compliance with the control regime; it is responsible for preventing a controlled item from leaving the national customs area without the prior authorization of the Commission.

21. What measures, if any, have you adopted to criminalize the violation of the arms embargo directed at Usama bin Laden, members of the Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them?

In the Argentine Republic there is no penal provision that specifically makes it a crime for natural or legal persons to violate the sanctions imposed by the Security Council. It follows, of course, that there is no penal provision criminalizing the violation of the arms embargo directed at Usama bin Laden, members of Al-Qaida and the Taliban. Moreover, a penal provision directed specifically at particular individuals would be problematic from a constitutional standpoint.

However, article 220 of the Penal Code makes it an offence punishable by from six months' to two years' imprisonment to violate treaties concluded with foreign nations. Since Security Council resolutions are norms deriving from the Charter of the United Nations, the definition of the offence would apply to a violation of the sanctions regime established by the Security Council.

Moreover, violation of the embargo imposed by the United Nations would constitute the crime of smuggling, as defined in articles 863 to 867 of the Customs Code. In addition, the Penal Code makes it a punishable offence to manufacture, supply, acquire, steal, stockpile or possess bombs, nuclear materials or devices, explosives, inflammables, asphyxiating or toxic substances or substances or materials used in their preparation (article 189 bis).

If non-compliance is due to the negligence of a public official, it may constitute the offence of negligent smuggling (article 868 of the Customs Code) or breach of duty of a public official (article 248 of the Penal Code), among other possibilities.

22. Please describe how your arms/arms broker licensing system, if any, can prevent Usama bin Laden, members of the Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them from obtaining items under the established arms embargo.

Before authorizing an export of military materiel or weapons technology, the Commission requires the submittal of a final-user certificate, which must meet the requirements of Decree No. 657/95. In that regard, article 1 of the Decree provides:

"The National Commission for the Control of Sensitive Exports and Military Materiel, established by Decree No. 603/92, before authorizing the export, shall require a final-user certificate identifying the final user of the military materiel and attesting that it will not be re-exported without the authorization of the competent authorities of the Argentine Republic. The final-user certificate must contain a certification from the Ministry of Defence or other competent authority of the country issuing it, including information on the buyer and the final user of the military materiel being sold; the certificate must list the materiel being purchased and be accompanied by all the documentation required to authenticate the transaction convincingly ...".

Article 2 provides further:

"The embassy of the Argentine Republic in the buyer's country shall certify that the signatures appearing on the final-user certificate referred to in article 1 of this Decree are authentic and pertain to the competent authority empowered to issue the certificate".

Lastly, article 4 provides:

"The National Commission for the Control of Sensitive Exports and Military Materiel may exercise control in the country of destination subsequent to the sale to ensure that the materiel has actually reached the recipient named on the final-user certificate. The embassies of the Argentine Republic abroad shall be responsible for carrying out the relevant inspection through the military attachés accredited in that locality. If there is no military attaché in the jurisdiction, such tasks shall be performed by an official of the nation's foreign service accredited there".

In connection with exports of sensitive goods, the Commission, before authorizing the export, shall require the submittal of an affidavit by the importer with content similar to that required for the final-user certificate under Decree No. 657/95, as discussed above. The signature of the importer on the affidavit shall be authenticated by a notary public and shall be accompanied by the appropriate consular and/or ministerial legalizations.

Moreover, when submitting the application for authorization to export a controlled item, the applicant must also submit a number of documents and provide information about the requesting firm and its representatives and the use and destination of the item.

The procedure for import or export of firearms is as follows:

The National Arms Registry (RENAR) has oversight of items classified as weapons for military or civilian use under article 4 of Act No. 20,429 (National Weapons and Explosives Act).

Importers must register with the authorities (providing individual or company name, address, identity data, articles of association and the like), keep special books initialled by the authorities and request authorization before carrying out an import transaction (Act 20,429, article 11, paragraph 2).

The request for import authorization shall consist of a note on company letterhead requesting import authorization and naming the exporting firm in the country of origin, together with the filled-out form listing the goods for which authorization is sought.

The National Arms Registry shall prepare a registry report verifying compliance with current regulations. It shall then draw up a technical report on the goods to be imported. It shall render a legal registry opinion and shall issue an import authorization good for 360 days.

Once the goods have arrived, the importer has 24 hours in which to inform the Registry and submit:

- Note from the importing firm and a list of items;
- Proof of payment of duty;
- Authenticated copy of the import clearance (via computer);
- Affidavit of personal and/or business data;
- Air waybill;
- Packing list;
- Authenticated copy of the import authorization;
- Original invoice;
- Proof of inspection of the goods, as required by Decree No. 395/75, article 30.

In order to be entitled to export, the company must be registered as an exporter and authorized for the category of goods it intends to export. In addition, it must submit the following:

- Note on letterhead requesting inspection of the goods, with a breakdown giving serial numbers and the name and address of the company in the country of final destination;
- Certificate from the country of final destination listing the goods authorized for entry;
- Affidavit following the Registry model;
- Packing list;
- Invoice for the goods to be exported.

The carrier must request authorization for international transit on its letterhead, indicating the customs point of entry, together with:

- Export authorization issued by the country of origin (with a translation, if necessary);
- Packing list and commercial invoice;
- If more than 48 hours have passed, prior to inspection the goods must enter the Registry's warehouses, with payment of the corresponding rates.

23. Do you have any safeguards that the weapons and ammunition produced within your country will not be diverted/used by Usama bin Laden, members of

the Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them?

Use of the detailed mechanisms described under points 20 and 22 above allows the competent agencies of the national Government to identify suspicious transactions and thus to prevent weapons and ammunition from reaching the hands of Al-Qaida, the Taliban and other groups and individuals associated with them.

VI. Assistance and conclusion

24. Would your State be willing or able to provide assistance to other States to help them implement the measures contained in the above-mentioned resolutions? If so, please provide additional details or proposals.

It is relevant to mention here that, in the framework of the assistance provided by the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism, the Terrorism Prevention Branch of the United Nations Office on Drugs and Crime in Vienna has asked the Argentine Republic to establish a group of experts to serve as advisers on legislation to the countries of the region.

25. Please identify areas, if any, of any incomplete implementation of the Taliban/Al-Qaida sanctions regime, and where you believe specific assistance or capacity-building would improve your ability to implement the above sanctions regime.

Since, as indicated earlier, no instances have been reported where measures were called for specifically relating to the individuals and entities on the Committee's list, no areas of incomplete implementation of sanctions have been identified.

26. Please include any additional information you believe pertinent.

Not applicable.



Security Council

Distr.: General
24 April 2003
English
Original: Spanish

Security Council Committee established pursuant to resolution 1267 (1999)

Note verbale dated 17 April 2003 from the Permanent Mission of Cuba to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Cuba to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) and has the honour to transmit the report submitted by the Government of Cuba pursuant to Security Council resolution 1455 (2003) (see annex).



Annex to the note verbale dated 17 April 2003 from the Permanent Mission of Cuba to the United Nations addressed to the Chairman of the Committee

Report submitted by the Republic of Cuba pursuant to paragraphs 6 and 12 of Security Council resolution 1455 (2003)

I. Introduction

1. Please provide a description of activities, if any, by Osama bin Laden, al-Qa'idah, the Taliban and their associates in your country, the threat they pose to the country and the region, as well as likely trends.

The Government of the Republic of Cuba has never recognized or maintained any economic or commercial relations with Osama bin Laden, the al-Qa'idah network or the Taliban regime. On the contrary, it has maintained diplomatic relations with the Government-in-exile which has always been recognized by the United Nations.

The Government of the Republic of Cuba has taken all necessary measures to ensure compliance with Security Council resolution 1455 (2003) of 17 January 2003 relating to the item entitled "Threats to international peace and security caused by terrorist acts". To that end, on 20 December 2001, the National Assembly of People's Power of the Republic of Cuba, at the eighth regular session of its fifth legislature, held on 20 and 21 December 2001, adopted Law No. 93, the Law against Acts of Terrorism, the full text of which appears in the report of the Republic of Cuba submitted pursuant to paragraph 6 of Security Council resolution 1373 (2001), circulated as an official document of the Security Council (S/2002/15).

Since 1997, following the entry into force of Resolution No. 91/97 of the Minister-President of the Central Bank of Cuba, the Cuban banking and financial system has been implementing systematic measures for the prevention and detection of illicit capital flows.

For that purpose, all commercial banks licensed by the Central Bank of Cuba to open accounts for natural and legal persons, whether Cuban or foreign, regardless of their place of residence and of their business in or with Cuba, now use as an everyday tool internationally-recognized concepts such as "due diligence" and "know your customer". These two concepts are described in each bank's instruction and procedures manual and their application is monitored through internal audit by its central and regional offices.

Other banks, those not authorized to collect funds from customers or to open windows for current or savings accounts, also have instruction and procedures manuals incorporating those Central Bank regulations which are relevant to the nature of their business.

Apart from Resolution No. 91/97, the principal regulations introduced since 1997 are contained in Instructions Nos. 1, 2, 8, 17 and 18, all of which complement and enhance the terms of that resolution. In May 2002 the Superintendent of the Central Bank of Cuba issued Instruction No. 19, which enacted 14 guidelines for the prevention and detection of illicit capital flows intended for the financing of acts of terrorism.

It should be noted that the constant terrorist threat to which Cuba has been subjected over the past 40 years has obliged us to continually improve our counter-terrorism system. To that end, measures have been adopted to adapt the system to the existing situation and to the characteristics of the terrorist acts and activities against our people and territory. The following are some of the principal measures introduced over the past five years:

- Border detection systems at ports, airports, and tourist marinas and along the coastline have been strengthened. A thorough study of border vulnerabilities was conducted and a plan for their strengthening was prepared, including State financing amounting to several million United States dollars.
- A central command system for the country's main international airports was organized, to ensure coherence in the functioning of the various bodies involved in border matters.
- Staffing and communications in operational border units have been enhanced.
- Equipment for the detection of explosives has been purchased, and film and X-ray systems at border checkpoints have been improved.
- The availability and use of dogs trained in the detection of explosives have been increased.
- Training in detection of terrorist activities has been provided to Cuban staff who work in the areas of aviation and port operations and perform their duties in high-risk countries.
- Specialized training has been given to the crews of ships which travel to high-risk countries and to staff working in Cuban airport facilities. On occasion, when the operational situation calls for it, the aforementioned crews are joined by explosives experts or by operational personnel.
- Steps have been taken to strengthen the capacity to monitor suspicious persons as soon as they enter the air terminal area.
- Detection systems have been set up at the border checkpoints of the main international marinas.
- Coastal security and protection systems have been improved.
- The patrol and protection capacity of border guards has been increased.
- Security, protection and monitoring systems have been restructured at tourist facilities and the country's main economic structures.
- A specialized unit known as TEDAX (*Técnicos en Desactivación de Artefactos Explosivos*) has been created, specializing in the detection and deactivation of explosive charges.
- A methodology for dealing with terrorist acts and discoveries of explosive artefacts has been elaborated and distributed to the security forces.
- Personnel involved in the detection of explosives have received priority training, including the provision of charts describing signs to be looked for, demonstrations of methods used in such situations, and instruction in the use of sophisticated detection equipment.

A unit of the Ministry of the Interior works at all international airports and border checkpoints in order to ensure coherent integration among all organs of the Ministry, the armed forces and the State having responsibilities for the country's borders, in order to prevent criminal activities such as terrorism.

Also involved in this system is the national customs authority (Aduana General de la República) whose functions include controlling the entry of goods into the country in order to curb the activities of international smugglers and prevent the entry of items such as explosives, arms and drugs.

On a daily basis, this border monitoring system studies advance information on flights, coordinates the acquisition and use of explosives detection equipment and X-ray equipment at border checkpoints, the availability and use of dogs trained in the detection of explosives, drugs and other dangerous substances, and the selective visual checks used for monitoring suspicious persons as they enter the country.

These procedures, with the appropriate variations in their organization, are applied at the border checkpoints of the country's principal marinas and international ports.

The Cuban security authorities maintain relations with a number of foreign intelligence services. These mechanisms are used for the timely exchange of information on persons suspected of involvement in activities against Cuba or which might endanger third States.

Recently, Cuba officially proposed to the United States of America that the two countries should enter into three bilateral cooperation agreements in the area of combating terrorism, drug trafficking and illegal migration. The United States Government rejected the Cuban proposal.

As a preventive measure, training in the detection of terrorist activities is provided to Cuban personnel working in aviation and port operations in countries considered to be high-risk areas. When necessary in particular cases, the crews of ships sailing to foreign countries and personnel working at foreign airports are joined by experts in explosives and other security matters.

Furthermore, title I, article 2 of Law No. 93 also penalizes any preparatory acts detected by the authorities within Cuban territory, where those activities demonstrate the intention of carrying out terrorist acts in foreign countries.

II. Consolidated List

2. How has the 1267 Committee's List been incorporated within your legal system and your administrative structure, including financial supervision, police, immigration control, customs and consular authorities?

The consolidated list was distributed by means of a letter circulated by the Superintendent of the Central Bank of Cuba to banks and non-banking financial institutions. The letter instructed the central offices of the banks to send copies to all levels down to branch offices where required. All the financial institutions were requested to set up a streamlined operational mechanism to keep the list updated so that it could be consulted whenever necessary, in dealing with a foreign customer coming from any foreign country or countries where the al-Qa'idah terrorist organization is believed to be or suspected of being present.

All financial institutions were provided with the address of the United Nations web site where the list is located, in order to keep it updated at all times.

The Ministry of the Interior has a database containing the names of all individuals and organizations known to have links with international terrorism. The database is updated with data from the International Criminal Police Organization (Interpol) and other foreign security entities, in addition to the list provided by the United Nations.

3. Have you encountered any problems with implementation with regard to the names and identifying information as currently included in the List? If so, please describe these problems.

To date, neither the Ministry of the Interior nor the Cuban banking system has encountered any problems with implementation in relation with the individuals identified on the current list.

4. Have your authorities identified inside your territory any designated individuals or entities? If so, please outline the actions that have been taken.

To date, neither the Ministry of the Interior nor the Cuban banking and financial system has detected any entry into the country or any financial activity related to the designated individuals or entities.

5. Please submit to the Committee, to the extent possible, the names of individuals or entities associated with Osama bin Laden or members of the Taliban or al-Qa'idah that have not been included in the List, unless to do so would compromise investigations or enforcement actions.

Not applicable. There are no individuals or entities which have not been included in the list.

6. Have any listed individuals or entities brought a lawsuit or engaged in legal proceedings against your authorities for inclusion in the List? Please specify and elaborate, as appropriate.

No lawsuits or legal proceedings have been brought.

7. Have you identified any of the listed individuals as nationals or residents of your country? Do your authorities have any relevant information about them not already included in the List? If so, please provide this information to the Committee as well as similar information on listed entities, as available.

None of the listed individuals is a national or resident in the territory of the Republic of Cuba. No information is available relating to individuals included in the list.

8. According to your national legislation, if any, please describe any measures you have taken to prevent entities and individuals from recruiting or supporting al-Qa'idah members in carrying out activities inside your country, and to prevent individuals from participating in al-Qa'idah training camps established in your territory or in another country.

As explained in the introduction to this report, Cuban legislation, particularly Law No. 93 (the Law against Acts of Terrorism), provides legal authority for the actions of our security services, which use the national alert system designed to detect preparatory acts demonstrating the intention of carrying out terrorist acts

either in Cuba or abroad. In the latter case, the measures provided for include the appropriate sharing of information with the security services of the countries affected.

Law No. 93 comprises provisions prohibiting recruitment of persons into terrorist groups and categorizes the types of conduct defined in international counter-terrorism agreements. Article 10 of the Law provides that anyone who manufactures, supplies, sells, transports, sends, brings into the country or has in his possession in any manner or place, arms, ammunition or flammable materials, plastic explosives or explosive or deadly substances, is subject to 10 to 30 years' imprisonment, life imprisonment or death.

Article 5 of the Law also makes it an offence to:

- Propose to another person or persons that they participate in carrying out acts of terrorism;
- Conspire with one or more persons to commit the offences envisaged in this Law; or
- Incite or induce any person to commit such offences.

Articles 26 to 28 of the Law also penalize the following:

- Concealment of acts of terrorism;
- Failure to report such acts;
- Any other act that is not punished more severely by law but which aims to achieve terrorist ends.

The latter offence is also envisaged in Law No. 62 (the Penal Code), Title I of which relates to offences against State security. Chapter II, section 7, article 106 provides for the offence of terrorism, with penalties ranging from 10 to 20 years' imprisonment, or death.

Chapter X of the Penal Code relates to the illegal possession and bearing of firearms or explosives. Articles 211 to 213 provide for penalties ranging from fines to six months to 10 years' imprisonment, depending on the following:

- The type of weapon;
- The activity involved and its location;
- Whether the weapon is possessed or carried;
- Manufacture;
- Sale or loan of firearms or explosives.

There have never been al-Qa'idah training camps in the territory of the Republic of Cuba, nor are the authorities aware of any relations between natural or legal persons in Cuba with al-Qa'idah or its members.

III. Financial and economic assets freeze

Under the sanctions regime (paragraph 4 (b) of resolution 1267 (1999) and paragraphs 1 and 2 (a) of resolution 1390 (2002)), States are to freeze without delay the funds and other financial assets or economic resources of the listed individuals and entities, including funds derived from property owned or controlled, directly or indirectly, by them or by persons acting on their behalf or at their direction, and ensure that neither these nor any other funds, assets or resources are made available, directly or indirectly, for such persons' benefit, by their nationals or by any persons within their territory.

NOTE: For the purpose of implementation of the financial prohibitions in this sanctions regime, "economic resources" is defined to mean assets of every kind, whether tangible or intangible, movable or immovable.¹

9. Please describe briefly:

- the domestic legal basis to implement the asset freeze required by the resolutions above;
- any impediments under your domestic law in this context and steps taken to address them.

Concerning the freezing of assets, the Central Bank of Cuba has enacted the appropriate rules in order to freeze any type of financial or economic asset deposited in a bank account funded from any illegal activity. The same applies when it is verified that such assets may be used for the financing of terrorist acts within or outside Cuban territory.

On 7 May 2002 the Superintendent of the Central Bank of Cuba enacted Instruction No. 19, which applies to banks and non-banking financial institutions having offices in Cuban territory and comprises 14 guidelines for combating the financing of terrorism. In their drafting, account was taken of the provisions of Law No. 93 (the Law against Acts of Terrorism) of 20 December 2001, of the International Convention for the Suppression of the Financing of Terrorism (United Nations, 1999), of Security Council resolution 1373 (2001) of 28 September 2001 and of the eight Special Recommendations on Terrorist Financing of the Financial Action Task Force on Money Laundering (FATF) of the Organisation for Economic Cooperation and Development (OECD), dated 31 October 2001.

Since 1997, following the entry into force of Resolution No. 91/97 of the Minister-President of the Central Bank of Cuba (see annex I), the Cuban banking and financial system has been implementing systematic measures for the prevention and detection of illicit capital flows.

For that purpose, all commercial banks licensed by the Central Bank of Cuba to open accounts for natural and legal persons, whether Cuban or foreign, regardless of their place of residence and of their business in or with Cuba, now use as an everyday tool internationally-recognized concepts such as "due diligence" and "know your customer". These two concepts are described in each bank's instruction and procedures manual and their application is monitored through internal audit by its central and regional offices.

¹ From the International Convention for the Suppression of the Financing of Terrorism, 1999.

Other banks, those not authorized to collect funds from customers or to open windows for current or savings accounts, also have instruction and procedures manuals incorporating those Central Bank regulations which are relevant to the nature of their business.

The Cuban banking and financial system is equipped with computer programmes and others are being developed with a view to ensuring maximum oversight of all customer transactions and to assemble all customer information so that internal transactions, transfers to or from Cuba and any other financial activity carried out with funds from the account can be monitored.

In late 1997, the Minister-President of the Central Bank of Cuba issued a Resolution with a view to ensuring compliance with the "due diligence" requirement (Resolution No. 27, dated 7 December 1997). This Resolution established the Central Risk Information Office (CIR), whose statutes provide that its main goal is to "collect, process and disseminate information on delinquent debtors, suspicion or knowledge of money-laundering, irregularities in the issue of cheques, and criminal or fraudulent acts in relation to financial transactions in financial institutions or in associations or enterprises with which those institutions have financial dealings."

The main rules enacted since 1997, other than the aforementioned Resolution No. 91/97 and Resolution No. 27 of 7 December 1997, are Instructions Nos. 1, 2 (see annex 2), 8, 17 and 18, all of which complement and enhance the terms of Resolution No. 91/97.

Article 28 of Law No. 62 (the Penal Code) of 1987 sets out the main and secondary penalties which are applicable. Subparagraphs 3 (f) and (g) provide for seizure and confiscation of assets.

Articles 135, 215, 218, 228, 229 and 230 of the Law on Criminal Procedure (Law No. 5 of 1977) establish the duty to seize instruments or effects of any kind which may be related to a criminal offence, to retain them and to arrange for their expert evaluation where appropriate; to enter public or private premises where such documents can be seized and to examine and seize all documents, correspondence, papers or any other items as appropriate where such items may be instruments or effects relating to the offence.

Concerning the freezing of assets, the Central Bank of Cuba has enacted the appropriate rules in order to freeze any type of financial or economic asset deposited in a bank account where it is reliably shown that the money is derived from any type of illegal activity and it is verified that the money may be used for the financing of terrorist acts within or outside Cuban territory.

On 7 May 2002 the Superintendent of the Central Bank of Cuba enacted Instruction No. 19, which applies to banks and non-banking financial institutions having offices in Cuban territory and comprises 14 guidelines for the prevention and detection of illicit capital flows intended to finance acts of terrorism. In their drafting, account was taken of the provisions of Law No. 93 (the Law against Acts of Terrorism) of 20 December 2001, of the International Convention for the Suppression of the Financing of Terrorism (United Nations, 1999), of Security Council resolution 1373 (2001) of 28 September 2001 and of the eight Special Recommendations on Terrorist Financing of the Financial Action Task Force on Money Laundering (FATF) of the Organisation for Economic Cooperation and Development (OECD), dated 31 October 2001.

Instruction No. 19 states that banks must immediately report to the competent departments of the Ministry of the Interior any complex transaction of unusual magnitude and those not having a legitimate economic purpose, providing conclusive evidence that a money-laundering operation is in progress, or where there is reasonable suspicion that funds are linked to or will be used for acts of terrorism. Banks are authorized to block on a preventive basis or to freeze the funds or other financial assets of natural or legal persons, whether Cuban or foreign, who are under suspicion. If investigations reliably prove the guilt of the persons involved, a formal complaint is to be made to the competent court; if the legal proceedings result in a conviction, the balance of the funds in question will be seized by the State.

Paragraphs 2, 3 and 4 of Instruction No. 19 (see annex 3) sets out the requirements and treatment to be applied to entities and/or individuals of any kind involved in the transfer of funds or other financial assets. If there is reasonable suspicion that a transaction relates to or will be used for the financing of terrorist acts, banks must decline to carry out the requested transaction.

Article 1.2 of Law No. 93, the Law against Acts of Terrorism, defines the scope of the Law and states that acts of terrorism shall be deemed to be committed within Cuban territory "whether the accused has carried out in Cuba preparatory acts or actual acts of terrorism, the effects of which are felt in another country, or the acts take place in a foreign country but their effects are felt in Cuba".

Article 8 of Law No. 93 empowers pre-trial judges, government attorneys or the courts to order the preventive attachment or freezing of the funds and other financial assets, or of economic assets or resources of the defendants and of any persons or entities that have acted on behalf of the defendants and entities under the defendants' orders, including funds obtained or arising from assets belonging to or under the control, direct or indirect, of the defendants and of persons and entities associated with them.

Article 9 of Law No. 93 provides that a court may order the confiscation of the defendant's assets, as an accessory penalty, as provided for in article 44 of the Penal Code.

In practice, the procedure for freezing funds and other financial assets takes a full 24 hours from the day and time of the notification of the order issued by any competent court or government attorney in the country. Moreover, the Cuban justice system has granted authority to order such measures to judges, government attorneys and security officials.

Where there is irrefutable evidence that a money-laundering operation is in progress and that the funds may be used for the financing of terrorist acts, banks are authorized to preventively attach or to freeze such funds, regardless of the nationality of the owner (whether a natural or a legal person) or his place of residence.

Where a request is made by another country for the freezing of the funds of non-residents and entities that support terrorism abroad, the Central Bank of Cuba, while respecting due process and subject to the laws of Cuba, is fully disposed to cooperate.

To date, no financial institution has been penalized, since they have been reporting any possibly suspicious operation, as required by the Central Bank of Cuba. The Bank's oversight officers, who are stationed in bank branches in each municipality and are responsible for the investigation on the spot of any operation that arouses suspicion, play an important role in this area.

The Bank Oversight Division of the Central Bank is currently working on making uniform, redrafting and modernizing Instructions Nos. 1 and 2, with a view to consolidating all the norms contained in Resolution No. 91 of 1997 into only two instructions.

(b) Thus far, no impediments have been encountered under domestic law in this context to the implementation of the measures contained in resolutions 1267 (1999) and 1390 (2002) of the Security Council.

10. Please describe any structures or mechanisms in place within your Government to identify and investigate Osama bin Laden, al-Qa'idah or Taliban-related financial networks, or those who provide support to them or individuals, groups, undertakings and entities associated with them within your jurisdiction. Please indicate, as appropriate, how your efforts are coordinated nationally, regionally and/or internationally.

Under the banking and financial system, banks and non-bank financial institutions have together established a technical committee for the prevention of fraud, whose principal task is to prevent fraud and to confront any customers who might attempt to use the system for money-laundering. In addition, each bank branch has a fraud prevention committee and an oversight officer.

Both the fraud prevention committee and the oversight officer are authorized to cooperate and exchange information with law enforcement agencies responsible for investigating suspicious customers. They carry out these activities in strict compliance with the regulations of the Central Bank of Cuba on banking secrecy.

11. Please convey the steps banks and/or other financial institutions are required to take to locate and identify assets attributable to, or for the benefit of, Osama bin Laden or members of al-Qa'idah or the Taliban, or associated entities or individuals. Please describe any "due diligence" or "know your customer" requirements.² Please indicate how these requirements are enforced, including the names and activities of agencies responsible for oversight.

The instruction and procedures manuals of all bank branches in Cuba contain provisions for meeting the requirements set out in the above-mentioned Instruction No. 19. The banking and financial system also has a comprehensive set of mandatory norms that first lists the elements and tools needed to "know your customer". A guide is also being introduced that includes personal and organizational data on possible Cuban or foreign customers, whether these are natural or legal persons, irrespective of their place of residence.

On the question of due diligence, each of the main offices of the system has a monitor who is responsible for, inter alia, the daily review of all customer transactions that depart from the normal pattern. The officer also cooperates with other financial institutions and with the investigative organs of the Ministry of the

² For details see the third report of the Monitoring Group, of 17 December 2002 (S/2002/1338, chap. V, paras. 27-29).

Interior through the exchange of information on suspicious customers. When opening an account, each customer is also required to enter into a contract that sets out the rights and duties of the parties.

In preparing contracts for foreign customers, banks endeavour to obtain information on the use and estimated volume of movements on the account, the type of business, source of funds and the amount to be deposited. Enquiries are made through correspondent banks about the customer's financial and economic resources.

The Cuban banking and financial system is equipped with computer programmes and others are being developed with a view to ensuring maximum oversight of all customer transactions. These programmes provide access to all customer information so that internal transactions, transfers to or from Cuba, and any other financial activity carried out with funds from the account can be monitored.

In addition, in order to comply with the "due diligence" requirement, in late 1997 the Central Risk Information Office (CIR) was established by a resolution of the Minister and President of the Central Bank of Cuba, as indicated on page 11 of this report.

12. Resolution 1455 (2003) calls on Member States to provide "a comprehensive summary of frozen assets of listed individuals and entities". Please provide a list of the assets that have been frozen in accordance with this resolution. This list should also include assets frozen pursuant to resolutions 1267 (1999), 1333 (2000) and 1390 (2002). Please include, to the extent possible, in each listing the following information:

- Identification(s) of the persons or entities whose assets have been frozen;
- A description of the nature of the assets frozen (i.e., bank deposits, securities, business assets, precious commodities, works of art, real estate property, and other assets);
- The value of assets frozen.

To date, the banking and financial system of Cuba has detected none of the listed persons or entities attempting to use our banks or non-bank financial institutions.

13. Please indicate whether you have released pursuant to resolution 1452 (2002) any funds, financial assets or economic assets that had previously been frozen as being related to Osama bin Laden or members of the al-Qa'idah or the Taliban or associated individuals or entities. If so, please provide reasons, amounts unfrozen or released and dates.

There has been no unfreezing of any funds, financial assets or economic resources, since to date Cuba's banking and financial system has not been used by persons or entities alleged to be members of al-Qa'idah or related to Osama bin Laden.

14. Pursuant to resolutions 1455 (2003), 1390 (2001), 1333 (2000) and 1267 (1999), States are to ensure that no funds, financial assets or economic resources are made available, directly or indirectly, to listed individuals or entities or for their benefit, by nationals or by any persons within their

territory. Please indicate the domestic legal basis, including a brief description of laws, regulations and/or procedures in place in your country to control the movements of such funds or assets to designated individuals and entities. This section should include a description of:

- The methodology, if any, used to inform banks and other financial institutions of the restrictions placed upon individuals or entities listed by the Committee, or who have otherwise been identified as members or associates of al-Qa'idah or the Taliban. This section should include an indication of the types of institutions informed and the methods used;

All banks and non-bank financial institutions have received the list and are complying satisfactorily with the 14 Guidelines contained in Instruction No. 19 issued by the Superintendent of the Central Bank of Cuba for the prevention and detection of possible illicit financial transactions for the benefit of individuals or entities alleged to belong to or to be associated with al-Qa'idah. The principal methodology used is the daily review of all customer transactions, the application of "due diligence", and use of all necessary means to get to "know the customer".

- Required bank-reporting procedures, if any, including the use of Suspicious Transaction Reports (STR), and how such reports are reviewed and evaluated;

Banking regulations for the prevention and detection of money-laundering operations in our financial institutions require all staff serving national or foreign customers to report as a suspicious transaction any attempt to conclude a transaction that departs from the normal pattern of transactions for the customer in question. The oversight officer reviews the information with the assistance of other specialists from the financial institution. The result of the analysis is reported to the appropriate organ of the Ministry of the Interior, which conducts the necessary investigations and appropriate evaluation to determine whether or not it represents an attempt at money-laundering. The Central Risk Information Office also receives reports on possible money-laundering operations.

- Requirements, if any, placed on financial institutions other than banks to provide STRs, and how such reports are reviewed and evaluated;

Non-bank financial institutions are also required to report suspicious transactions, cooperate with the Ministry of the Interior and report to the Central Risk Information Office. Under our banking and financial system, other legal entities or natural persons (notaries, attorneys or financial managers) are not authorized to engage in any kind of financial activity.

In evaluating any report of a suspicious transaction, account is taken in all cases of the information that is available on the customer from the time he became a customer of the bank or non-bank financial institution, the record of his transactions, his corporate history and the nature of his transactions with Cuban companies.

- Restrictions or regulations, if any, placed on the movement of precious commodities such as gold, diamonds and other related items;

The Central Bank of Cuba has regulated all aspects of the movement of precious commodities, especially those that have been confiscated from criminals, which are kept in the vaults of the Central Bank.

- Restrictions or regulations, if any, applicable to alternate remittance systems such as or similar to "hawala", as well as on charities, cultural and other non-profit organizations engaged in the collection and disbursement of funds for social or charitable purposes.

The above-mentioned Instruction No. 19 regulates SWIFT electronic transfers to and from Cuba by the banking system, which is a member of the SWIFT system. It also stipulates that the operations of non-governmental organizations and their financial relations within and outside of our territory should be monitored with "due diligence".

IV. Travel ban

Under the sanctions regime, all States shall take measures to prevent the entry into or transit through their territories of listed individuals (paragraph 1 of resolution 1455 (2003), paragraph 2 (b) of resolution 1390 (2002)).

15. Please provide an outline of the legislative and/or administrative measures, if any, taken to implement the travel ban.

The list of persons linked to terrorism, including the United Nations list of members of the Taliban and of the al-Qa'idah organization, is on the shared files of all branches of the Ministry of the Interior that are involved in the fight against terrorism and is part of the obligatory border control procedures for officials of the Department of Immigration and Alien Affairs.

In addition, in the case of the falsification of passports, since the latter are considered to be public documents to be issued and authorized by public officials and with the specific formalities provided for by law, including the authorization of visas, such action will constitute the crime of falsification of public documents provided for and punished under article 250 of the Penal Code, with a term of imprisonment of from three to eight years.

Articles 252, 255 and 259 of the Penal Code provide penalties for the falsification of identity cards, temporary identification documents or other identification documents, for the use of such false documents or for those in possession of them, as well as for the manufacture, importation or possession of equipment to be used in the falsification of documents.

Title VII of the Penal Code deals with crimes against public integrity. Chapter III, article 255, deals with the falsification of documents and punishes such acts with terms of imprisonment of three months to one year or with fines. Article 255 (d) and (e) punishes the tendering of such documents to an authority or public official.

In addition, article 259 provides for punishment of two to five years imprisonment for the manufacture, importation or possession of equipment for the falsification of such documents.

It is proposed to incorporate security features in the preparation of identity and travel documents to facilitate the detection of false documents. These protective and security features have been modernized and improved and are being used in identity cards and passports.

Upon arrival at or departure from all border checkpoints, national and foreign travellers are subject to strict controls by specialized officers of the Department of Immigration and Alien Affairs of the Ministry of the Interior of the Republic of Cuba.

16. Have you included the names of the listed individuals in your national "stop list" or border checkpoint list? Please briefly outline steps taken and any problems encountered.

Where it is learnt that individuals with known links to international terrorism were monitored at border checkpoints, either of these main types of procedures is followed:

- Notification is sent out for their detection at the border itself;
- Notification is sent out for them to be strictly monitored while in the national territory.

17. How often do you transmit the updated list to your border control authorities? Do you possess the capability of searching list data using electronic means at all your entry points?

The updating of the list of individuals by the Department of Immigration and Alien Affairs of the Ministry of the Interior for use at border checkpoints is done systematically and on the basis of the information provided by the security agencies concerning individuals linked to international terrorism.

To this end, the necessary electronic equipment is available at the points of entry into the country.

18. Have you stopped any of the listed individuals at any of your border points or while transiting your territory? If so, please provide additional information, as appropriate.

None of the listed individuals have been stopped nor have any attempts by them to enter the national territory been detected.

19. Please provide an outline of the measures, if any, taken to incorporate the list in the reference database of your consular offices. Have your visa-issuing authorities identified any visa applicant whose name appears on the list?

The list has been circulated to all Cuban consulates abroad, which update them regularly using information from the United Nations web page. To date no visa applications have been discovered.

V. Arms embargo

Under the sanctions regime, all States are requested to prevent the direct or indirect supply, sale and transfer to Osama bin Laden, members of the al-Qa'idah organization and the Taliban and other individuals and entities associated with them, from their territories or by their nationals outside their territories of arms and related materiel of all types, including the provision of spare parts and technical advice, assistance, or training related to military activities (paragraph 2 (c) of resolution 1390 (2002) and paragraph 1 of resolution 1455 (2003)).

20. What measures, if any, do you now have in place to prevent the acquisition of conventional arms and weapons of mass destruction (WMD) by Osama bin Laden, members of the al-Qa'idah organization and the Taliban and other individuals, groups, undertakings and entities associated with them? What kind of export control do you have in place to prevent the above targets from obtaining the items and technology necessary for weapons development and production?

Only the Ministry of the Interior may authorize the import or export of arms and explosives.

Within the territory of the Republic of Cuba, all plants that produce arms and related materiel of all types are under the strict control of the armed forces.

Under the border control system, the Customs Department of the Republic is responsible for controlling the entry of goods into the national territory to prevent international smuggling and the entry of explosives, weapons, drugs and related items.

Where arms and explosives arrive at our borders without the prior authorization of the Ministry of the Interior, they are placed immediately in the storage facilities of the Customs Department, which is responsible for their safe keeping until a determination is made as to their final disposition.

Also in force is Decree-Law No. 52/82 on arms and ammunition and the implementing regulations in Resolution 19/82.

This legislation regulates the manufacture, sale, possession, acquisition, storage and transport of arms and explosives in Cuba. It is currently being improved through a new draft decree-law on arms and ammunition, which deals in greater depth with questions related to international trade.

Cuba is a State Party to the Convention on the Marking of Plastic Explosives for the Purpose of Detection, which it is strictly implementing. In applying that Convention, Cuba employs various techniques for detecting explosives, with a view to preventing or intercepting terrorist actions against its national territory.

There is a body of regulations and an agency responsible for the inspection, surveillance and monitoring of the import, export, transport, storage, use, destruction and disablement of industrial explosives, ignition devices, and their chemical precursors. Those activities are adequately initiated, implemented and monitored.

Because plastic explosives are not manufactured in Cuba, either for civilian or military purposes, the country has no need to purchase chemical substances that might facilitate their detection in accordance with the provisions of the above-mentioned Convention.

21. What measures, if any, have you adopted to criminalize the violation of the arms embargo directed at Osama bin Laden, members of al-Qa'idah organization and the Taliban and other individuals, groups, undertaking and entities associated with them?

Actions to support international terrorism, as well its financing and planning, are duly included in the aforementioned act No. 93, the Law against Acts of Terrorism, which is implemented by all Cuban police and security bodies.

22. Please describe how your arms/arms broker licensing system, if any, can prevent Osama bin Laden, members of al-Qa'idah organization and the Taliban and other individuals, groups, undertakings and entities associated with them from obtaining items under the established arms embargo.

In the Republic of Cuba the procedure for granting arms licences is extremely restrictive, and is duly controlled by the Ministry of the Interior. There is no arms broker system. As indicated in the answer to the previous question, arms are rigorously controlled by agencies of Cuba's armed forces.

23. Do you have any safeguards that the weapons and ammunition produced within your country will not be diverted/used by Osama bin Laden, members of al-Qa'idah organization and the Taliban and other individuals, groups, undertakings and entities associated with them?

The control of arms and ammunition by the Ministry of the Interior and the armed forces, whether those circulating domestically or those traded abroad, and the existence of relevant legislation offer a comprehensive safeguard for preventing the trading and smuggling of arms by terrorists and terrorist groups.

VI. Assistance and conclusion

24. Would your State be willing or able to provide assistance to other States to help them implement the measures contained in the above-mentioned resolutions? If so, please provide additional details or proposals.

The Republic of Cuba is willing to cooperate with other States to combat international terrorism. It has even made repeated proposals in that regard to the United States Government, but those proposals have been met with a negative response.

Note verbale No. 543, dated 14 November 2001, addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001), included the names of eight Cuban experts who would be willing to provide specialized assistance to the said Committee.

Note verbale No. 547, dated 19 November 2001, addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) included the curriculum vitae of José R. Menéndez Hernández, one of the eight candidates put forward by Cuba to provide specialized assistance to the Committee. The curricula vitae of the other seven candidates had already been submitted to the Counter-Terrorism Committee in note verbale No. 543 of 14 November 2001.

List of Cuban experts available to assist the Counter-Terrorism Committee of the Security Council

Drafting of legal texts

José Candia Ferreyra

Julio C. Fernández de Cossío

Carlos Alejandro Pérez Inclán

Financial law and practice

Julio C. Fernández de Cossío

Esteban Martel Sotolongo

Michelle Abdo Cuza

Carlos Alejandro Pérez Inclán

Customs law and practice

Héctor Manuel de Moya Martínez

Manuel Ricardo González Gutiérrez

Immigration law and practice

Héctor Manuel de Moya Martínez

Manuel Ricardo González Gutiérrez

Extradition law and practice

José Candia Ferreyra

Julio C. Fernández de Cossío

The police and law enforcement agencies

Manuel Ricardo González Gutiérrez

José Candia Ferreyra

Illicit arms trafficking

José R. Menéndez Hernández

Héctor Manuel de Moya Martínez

Manuel Ricardo González Gutiérrez

25. Please identify any areas, if any, of any incomplete implementation of the Taliban/al-Qa'idah sanctions regime, and where you believe specific assistance or capacity-building would improve your ability to implement the above sanctions regime.

There has been no incidence of incomplete implementation of the sanctions regime, for which the Government has adopted all the necessary measures in the areas of migration, security and finance. The Republic of Cuba has all the legal and monitoring mechanisms required to deal with circumstances such as those described.

26. Please include any additional information you believe pertinent.

In conclusion, it should be noted that the Government of the Republic of Cuba, in implementing its traditional policy of combating terrorism in all its form and manifestations, has taken the necessary measures to implement Security Council resolution 1455 (2003).

It should also be mentioned that, prior to approval of that resolution, Cuba already possessed the legal provisions necessary for the prevention of activities designed to finance terrorist actions. The necessary precautions had also been taken with respect to the remaining sanctions.

Annexes

Annex 1

Resolution No. 91 of 9 March 1997. This resolution introduced into law the Guide for members of the national banking system on the detection and prevention of illegal capital movements. All members of the national banking system are required to implement the Guide, and the General Auditor is charged with issuing the necessary instructions for its implementation and monitoring.

The Guide establishes a coherent set of general, uniform regulations designed to facilitate joint action by the financial sector to prevent the unlawful use of its services. It also clearly defines the concrete responsibilities of financial institutions in this area, with a view to ensuring that their services are not used for illicit purposes, particularly in operations designed to launder the proceeds of crimes such as drug trafficking and tax evasion. The regulations must be applied by all members of the national banking system. Moreover, failure to introduce or to maintain adequate policies and procedures on money-laundering is one of the criteria taken into account when extending or revoking licences authorizing institutions to carry out banking and financial activities in Cuba.

Sections of the Guide

- I. Sets out the principles and objectives of the Guide.
- II. Definitions and stages of money-laundering.
- III. Policies, procedures and oversight.
- IV. Detection procedures.
- V. Record-keeping.
- VI. Detecting and reporting suspicious financial transactions.
- VII. Cooperation with the authorities.
- VIII. Training staff to apply the regulations.

Attached to the Guide is an annex on the detection of suspected money-laundering activities in relation to:

- A. Cash transactions;
- B. Alerting customers;
- C. Complex operations and movement of funds.

Annex 2

Instruction No. 1, of 20 February 1998, signed by the General Auditor of the Bank of Cuba, provides additional information on implementing and monitoring the Guide, setting out 19 guidelines, which are to be adapted to the individual characteristics of each institution:

Know your customer. The main aim of the "know your customer" policy is to ensure that financial institutions can predict with relative accuracy the type of transaction that the customer will require.

Identification of customers. Introduces procedures to determine the true identity of the customer and the nature of his activities when opening an account or providing some other banking service.

Obtaining valid customer references. Stresses the importance of obtaining information from reliable sources about the customer's history, taking the necessary steps to verify the customer's identity and the nature of his activities.

Transactions with legal persons. Accounts belonging to legal persons are those most often used for money-laundering, particularly when their "front company" is a legally established entity. It is therefore necessary to identify the directors, officers having authorized signature, and the nature and history of the business.

Opening and managing accounts, by type of account. Employees who assist customers in opening accounts must be trained in the relevant authentication and verification procedures. For the detection of unusual operations, it is advisable to set up a procedure for monitoring account movements.

Depositing and withdrawing cash. It is recommended that a system be established for monitoring the receipt and payment of large-denomination bills and their transfer to other financial institutions.

Loans guaranteed by deposits. Stresses the need to exercise caution in the case of loan operations guaranteed by deposits registered with other domestic or foreign institutions.

Payment instruments. Stresses the need to take particular care when accepting cheques bearing multiple endorsements, whenever the identity of the first beneficiary is not known or cannot be verified. Equal care should be taken in the case of multiple payment orders, postal orders, travellers' cheques, banker's drafts, or other payment instruments.

Securities transactions. It is advised that special attention be paid to the possibility of laundering assets through transactions involving investment in securities.

Numbered accounts. In any cases that might exist, it is imperative that regulations on identifying and knowing the customer, references, and the management of such accounts be applied.

Safe-deposit boxes. Care must be taken in the case of requests for safe-deposit boxes and other types of custodial services, since such services may be used to deposit money, securities or other assets procured by illegal means.

Transfers. Whenever transfers are made repeatedly or for large amounts, and the bank is unable to verify the legitimacy of the funds' origin, a request must be

submitted to the issuing bank for information concerning the identity of its customer and the nature of his activities.

Know your employees. It is advisable to observe the behaviour of employees, especially those whose work involves customer service, receiving deposits, and data control, by establishing the appropriate regulations and controls.

Training staff to implement the established regulations. Care should be taken to provide ongoing training for staff concerning the institution's procedures for applying legal mechanisms, controls, and obligations.

Monitoring compliance with regulations. Monitoring systems should be introduced to ensure compliance with, and regular evaluation of regulations, facilitating review of all the aforementioned aspects.

Enforcing the administrative and legal responsibilities of managers, officers and general staff in the event of failure to comply with the regulations. There must be full understanding of the policies and procedures for the prevention of money-laundering and the criminal responsibilities that may be incurred should the services of the institution be used for that purpose.

Detection of suspected money-laundering operations and adoption of internal bank measures. It is important to be well-informed about the nature of the customer's business, so that an unusual transaction or series of transactions can be more easily detected.

Oversight Officer. Each financial institution has a designated officer, reporting to the most senior management level, who is responsible for identifying and investigating suspected money-laundering activities, whether detected by him or reported to him by the staff. The oversight officer must collaborate with and report to both the Ministry of the Interior and the Central Risk Information Office of the Central Bank of Cuba's Oversight Division.

The oversight officer must also take particular account of the regulations in force on banking secrecy and submission of documents that have been or may be issued by his institution or by the Central Bank of Cuba.

The oversight officer is responsible for the following tasks:

- Formulating policies, programmes or instructions for the prevention of money-laundering;
- Compiling documentation about money-laundering;
- Investigating suspected money-laundering activities reported to the financial institution;
- Preparing reports for senior management;
- Supervising the work of other employees involved in oversight activities;
- Monitoring compliance with oversight regulations established by the institution;
- Applying, within the institution, oversight measures deriving from situations arising at other institutions;

- Preparing information on suspicious transactions which institutions must submit to the Ministry of the Interior and to the Central Risk Information Office of the Central Bank of Cuba's Oversight Division.

Useful information for detecting money-laundering operations and providing legal assistance to the authorities

Financial institutions must establish adequate procedures for monitoring and recording all suspicious operations, in order to facilitate the submission of reports to the auditors, the Bank of Cuba's Oversight Division, and other officials concerned.

Instruction No. 2, of 26 April 2000, signed by the General Auditor of the Central Bank of Cuba, provides additional information on implementing and monitoring the Guide, specifically applicable to illicit activities involving withdrawals and payments in Cuban territory, such as those mainly related to:

1. Withdrawal of money to pay wages or other monies on days other than those stipulated, in larger amounts, or at shorter intervals, than usual.
2. Performance of operations having no relationship to the activities of the entity concerned.
3. Withdrawal of cash by individuals who do not usually do so, even if they appear to be authorized.
4. Relationships with individuals having nothing to do with the entity's usual operations.

Annex 3

Articles of the regulatory instrument

Article 2: Natural or legal persons wishing to transfer money or securities must present to a Cuban bank the relevant authorization from the Central Bank of Cuba and be registered in the country, in accordance with Cuban law.

Article 3: Before executing an electronic funds transfer, banks must obtain precise information from the customer, including full name, address, and account number. The information must be kept, together with the related transfer or communication, for at least five years after the accounts have been closed and the transaction has been finalized.

Article 4: Banks are required to investigate and monitor funds transfers deriving from operations which, because they do not include the complete information referred to in the previous article, raise suspicions of illicit activity. Moreover, they may refuse to execute funds transfers whenever they have good reason to suspect that such transfers may be linked to the financing of terrorist acts or will be used for that purpose.



Security Council

Distr.: General
24 April 2003
English
Original: Arabic/English

Security Council Committee established pursuant to resolution 1267 (1999)

Letter dated 17 April 2003 from the Permanent Representative of Kuwait to the United Nations addressed to the Chairman of the Committee

I have the honour to forward herewith a copy of the State of Kuwait's report regarding the steps taken to implement the measures against Taliban and al-Qa'idah organization in accordance with paragraph 6 of Security Council resolution 1455 (2003).

Original copy of the report including the laws and decrees will be forwarded to Your Excellency in due time.

(Signed) Mohammad A. Abulhasan
Ambassador
Permanent Representative



Permanent Mission of Kuwait to the United Nations

17 April 2003

Sir,

I have the honour to transmit to you herewith a copy of the report of the State of Kuwait on the steps taken to implement measures relating to the al-Qa'idah organization, the Taliban movement and the Osama bin Laden group. The report has been prepared in accordance with paragraph 6 of Security Council resolution 1455 (2003) and other relevant resolutions concerning the Taliban movement and the al-Qa'idah organization.

We shall provide you at a later time with the original of the report in full, together with its annexes pertaining to laws, regulations and circulars.

Accept, Sir, the assurances of my highest consideration.

(Signed) Mohammad A. **Abulhasan**
Permanent Representative

His Excellency Ambassador Juan Gabriel Valdés
Chairman of the Security Council Committee established
pursuant to resolution 1267 (1999)

State of Kuwait

**Ministry of Foreign Affairs
Department of International Organizations**

Report on steps taken by Kuwait with respect to the al-Qa'idah organization, the Taliban movement and the Osama bin Laden group pursuant to Security Council resolution 1455 (2003) and other relevant resolutions

Introduction

Kuwait is one of the countries that have been the target of numerous terrorist attacks over the past two decades. However, within the framework of new developments in the area of terrorism, and especially after the events of 11 September 2001 in the United States of America, Kuwait has intensified its efforts, both locally and internationally, to counter those developments.

Thus, Kuwait has set up numerous national committees within the framework of the study of international terrorism from the political and financial standpoints as well as in connection with charitable organizations. In the political area, after the events of 11 September Kuwait created a committee within the Ministry of Foreign Affairs (Department of International Organizations) to follow up on the implementation of international resolutions and answer queries emanating from the Security Council committees established pursuant to resolutions 1373 (2001) and 1267 (1999). The members of that ministerial committee belong to numerous governmental quarters. In the area of charitable organizations, it created a committee for follow-up of the reorganization of charitable work in the wake of the events of 11 September. The Council of Ministers of Kuwait formed a supreme committee on the organization of charitable work, chaired by the Ministry of Social Affairs and Labour, to serve as a permanent authority on the organization of charitable work.

In the financial area, a committee to combat money-laundering and terrorism-financing activities was established in 2002 under the chairmanship of the Kuwaiti Ministry of Finance, with members including representatives of a number of State agencies. This committee is charged with various tasks, including the following:

1. Mapping out strategic policies and general policy on combating money-laundering and terrorism;
2. Preparing the necessary draft laws, amending and updating legislation and preparing implementing regulations on combating money-laundering and terrorism;
3. Providing coordination among the agencies concerned with this area.

The procedures followed within the framework of the monitoring of movements of the Osama bin Laden group, the al-Qa'idah organization and the Taliban movement include the monitoring of activities carried on by those groups. Among the activities observed one may note the collection of funds and their transfer abroad by certain individuals or acts of violence against military

personalities of friendly countries who happen to be in the country. These are the most important acts and activities observed in the country that violate the laws and regulations in force, be it in the political or financial spheres or in the area of charities.

The Consolidated List

We should like at the outset to point out that the List is considered the primary source on which coordination among the competent Kuwaiti authorities is based for the circulation of names. Those authorities, each within its own sphere of competence, take the necessary steps for entering those names, whether in the financial area, i.e., for following the balances of the persons in question, freezing their assets and prohibiting dealings with them, or in the security area, which involves taking all necessary steps to prevent the entry of persons belonging to or associated with the organization. Such prevention is connected with specific measures for the entry of all names and personal data of persons associated with the Osama bin Laden group, the al-Qa'idah organization and the Taliban movement in a prohibited-entry list that is circulated to all the country's exit/entry points.

In this connection, a number of procedures have been adopted against any and all individuals or groups to prevent support or assistance to the Osama bin Laden group, the al-Qa'idah organization or the Taliban movement. These procedures are derived from laws criminalizing the following:

- (a) Working for a foreign State or for a person working in the interest of such a State in a manner that is detrimental to the political standing of the State of Kuwait;
- (b) Carrying out, without the permission of the Government, any hostile activity against a foreign State or enrolling in the military forces of such a State;
- (c) Training in martial arts, bearing arms and using ammunition to achieve unlawful purposes;
- (d) Financing the establishment of training camps without the permission of the Government, which is considered a hostile act.

Regarding the submission to the Committee of the names of individuals associated with Osama bin Laden, al-Qa'idah or the Taliban, we should like to point out that the Kuwaiti judiciary is still examining many cases involving crime in this area. We find it difficult, however, to state the names of the perpetrators of such crimes until after the final judgement has been handed down in such cases. Nevertheless, we can mention the number of such trials and the measures that have been taken with regard to them:

- 1. Five cases have been turned over to the competent court but no final decision has yet been reached in them;
- 2. Three cases are in the investigation stage and have not been disposed of to date.

The competent Kuwaiti authorities feel that there are a number of problems that Kuwait faces in connection with the List, namely:

1. Some of the names are incomplete, while others are double names that are common; moreover, they are not accompanied by personal data such as the passport number or the like;
2. Some of the names are political aliases.

Financial assets

The Central Bank of Kuwait freezes the accounts and assets of persons and organizations whose names appear on the freeze list issued pursuant to the relevant Security Council resolutions and pursuant to explicit requests received by the Central Bank through the Kuwaiti Ministry of Foreign Affairs for the freezing of such accounts and funds.

Within this framework, immediately upon receipt of the circular from the Central Bank of Kuwait on the freezing of funds suspected of connections with terrorism, the units of the banking and finance system in Kuwait proceed to check the names of organizations and individuals that appear on the freezing lists. This is done by a computer search that makes it possible to extract any name or determine any assets connected with the names appearing on the said circular. The findings are then reported to the Central Bank and any existing assets or accounts belonging to such persons or organizations are immediately frozen and the Central Bank notified.

It may be noted that, on the basis of instructions from the Central Bank of Kuwait on combating money-laundering and the financing of terrorism, all local banks have established autonomous units, placed under the presidents of their respective boards of governors, to ascertain the degree of compliance with laws, ministerial decisions and directives of the Central Bank of Kuwait on combating money-laundering and the financing of terrorism as well as the policies, controls and measures established by the bank in question on this matter.

Determining the soundness of the procedures followed for ascertaining to what extent such funds, or cooperation with organizations suspected of being connected with terrorism, exist is one of the most important responsibilities of those autonomous units and other relevant units in the bank in question.

In this connection, we should mention the promulgation of Law No. 35/2002 on combating money-laundering and the directives of the Central Bank of Kuwait issued to all units subordinate to it, both of which accord special importance to the principle "Know your client", according to which no transaction is carried out with any individual or organization until their identity has been established on the basis of official documents.

It should be noted that the Central Bank of Kuwait is directly responsible for the monitoring of all banks, investment companies, investment funds and money-changing companies. It checks the extent to which those entities comply with all decisions and directives relating to money-laundering operations and the financing of terrorism and takes the necessary measures in respect of any violators.

In addition, the Government has placed a ban on transfers to public welfare associations and prohibited local banks and other financial institutions from opening accounts for or effecting money transfers in favour of public charity committees and societies in Kuwait unless they have been authorized to do so by the Kuwaiti

Ministry of Social Affairs and Labour. The Central Bank of Kuwait has made that prohibition universally applicable to all local banks, which are required to submit to the Central Bank accurate monthly reports, certified by the foreign accounts auditor, on financial transfers effected to all popular associations and institutions authorized to carry on charitable work in the State of Kuwait.

To return to the question of the monitoring of the activities of charitable committees and societies operating in Kuwait, the Ministry of Social Affairs and Labour has defined a number of controls for charitable work. As mentioned above, the Kuwaiti Council of Ministers has adopted a decision to establish a supreme committee on the organization of charitable work, chaired by the Ministry of Social Affairs and Labour, to serve as a permanent authority on the organization of charitable work. The Committee is entrusted with numerous responsibilities, which include the following:

1. Establishing policies and regulations for the collection of contributions;
2. Supporting the efforts of charitable institutions, enhancing their performance and making certain that there is proper financial monitoring of their activities;
3. Coordinating with official and grass-roots institutions with a view to promoting charitable work and furthering its contribution to the development of society.

The Ministry of Social Affairs and Labour, in cooperation with other governmental agencies, takes various steps in the area of charitable work, such as the following:

- The Ministry of Information monitors advertisements and announcements relating to public welfare associations or committees concerned with the collection of contributions from the public at large in order to ensure that they are not exploited for the wrong purposes;
- The Municipality of Kuwait City prohibits the granting to any society or committee of a building permit or a permit for the rental of buildings, real estate or other premises within the State of Kuwait in connection with the collection of voluntary contributions until approval has been obtained from the Ministry of Social Affairs and Labour.

In addition, a new organizational unit was created within the Ministry at the directorate level (known as the Directorate of Charitable Associations and Institutions) pursuant to ministerial decision No. 104/2002 of 5 August 2002. This Administration is responsible for overseeing all charitable institutions and associations, whether declared or to be declared in the future. It has prepared a detailed work plan that includes supervision and monitoring of all stages of the collection of contributions and the various aspects of expenditure and monitoring of all facets of charitable work in the country. An audit bureau has been designated to audit the accounts of charitable associations in accordance with internationally applied principles of accounting.

In an effort to codify charitable work, the Ministry of Social Affairs and Labour has also notified charitable associations that they must abide by all laws, decisions and regulations, and efforts have been made to call a temporary halt to the

announcement of new charitable organizations until the establishment of the necessary controls is completed.

With regard to new measures adopted, the following can be said:

1. Article 5 of Law No. 35/2002, on combating money-laundering, provides that the Office of the Public Prosecutor shall be the official authority in Kuwait for receiving notifications concerning suspects in cases relating to that area;
2. When such suspicions arise, the Central Bank shall issue directives to local banks, which, if they themselves have suspicions or doubts concerning a given transaction, shall set aside the funds related to the questionable transaction in a suspense account for a period not to exceed two business days, during which an investigation shall be conducted and information on the suspected transaction and the parties involved in it shall be collected. The results of the investigation performed by the bank shall be recorded in writing;
3. Should the final results of this procedure confirm those suspicions, the bank must notify the Office of the Public Prosecutor in accordance with the article mentioned above, giving the details, and must at the same time send a copy of such notice and details to the Central Bank for information.

Thus we find that investment companies and money-changing companies are subject to monitoring by the Central Bank under the law on combating money-laundering. Such entities report any suspicious transaction that has come to their attention. In addition, directives of the Central Bank of Kuwait on combating money-laundering and the financing of terrorism deal with money-changing companies in this connection. Such directives are currently also being prepared specifically for investment companies.

The said law deals with other financial institutions, such as money-changing institutions and insurance companies, by requiring them to report any suspicious operations in accordance with the above-mentioned article 5. It should also be noted that such entities are subject to monitoring by the Kuwaiti Ministry of Commerce and Industry.

Inasmuch as entities such as banks and money-changing companies, which are subject to monitoring by the Central Bank, are the sole entities authorized to effect money transfers, the Central Bank of Kuwait directives issued for those entities have made it a requirement that dealings be limited to carrying out such transactions with correspondents authorized for that purpose by the authorities in the country in which such correspondents are located.

Travel ban

The procedures followed in Kuwait are defined with respect to the lists provided by the Committee, as follows:

1. The names appearing on the list are entered;
2. The names are circulated via computer to the country's exit/entry points.

In this regard it should be mentioned that the question of providing the names of individuals to points of entry into the country is not a difficult matter: the entry of information relating to names of individuals or groups does not require much time or effort, inasmuch as it is done by computer.

The granting of entry visas involves the use of sophisticated means and takes place only after security clearance.

All the names on the lists provided by the Committee have been entered in computers by the competent Kuwaiti authorities and are circulated to exit/entry points. However, no individuals whose names appear on the lists have been arrested at such exit/entry points.

Military embargo

It must be pointed out that military agreements concluded by the State of Kuwait with other States are examined secretly, not publicly. In other words, an ordinary person is in no way able to examine them. This prevents information pertaining to them from being leaked to any entities or groups that might wish to exploit their provisions in a manner contrary to the interests of the country.

The Government of Kuwait, in cooperation with the Kuwaiti Parliament, follows the implementation of such agreements.

Concerning measures taken with regard to the training of the individuals in question, a number of elements associated with al-Qa'idah, the Taliban and the Osama bin Laden group have been apprehended. Persons whose involvement with those groups has been corroborated or who have received training at special camps have been turned over to the Kuwaiti judicial authorities in order that legal steps may be taken regarding them.

State of Kuwait**Ministry of Foreign Affairs
Department of International Organizations**

Law, decision or directive

- 1 Law No. 35 of 1985 on crimes involving the use of explosives
 - 2 Decree-law No. 13 of 1968 on weapons and ammunition
 - 3 Law No. 32 of 1968 on money, the Central Bank of Kuwait and the money-changing profession
 - 4 Law No. 15 of 1960 on commercial companies
 - 5 Law No. 36 of 1964 on the regulation of commercial agencies, and the related implementing regulation
 - 6 Law No. 8 of 2001 on the investment of foreign capital
 - 7 Law No. 35/2002 on combating money-laundering
 - 8 Ministerial decision No. 17/2002 on the establishment of a committee on combating money-laundering operations and the financing of terrorism
 - 9 Ministerial decision of 2002 on directives to be adopted to combat money-laundering
 - 10 Ministerial decision No. 104 of 2002 on the creation of the Directorate of Charitable Associations and Institutions
 - 11 Rules for the organization of the Directorate of Charitable Associations and Institutions
 - 12 Work plan of the Directorate of Charitable Associations and Institutions for the period from October 2002 to December 2003
 - 13 Circular to all local banks, the Kuwaiti Financing House and investment and money-changing companies
 - 14 Circular to all money-changing companies
 - 15 Instructions No. 2/RS/95/2002 to all money-changing companies on combating money-laundering operations and the financing of terrorism
 - 16 Guide to directives on types of suspicious transactions (1)
 - 17 Circular to all local banks
 - 18 Instructions No. 2/RB/92/2002 on combating money-laundering operations and the financing of terrorism
 - 19 Guide to directives on types of suspicious transactions (2)
-



Security Council

Distr.: General
24 April 2003
English
Original: French

Security Council Committee established pursuant to resolution 1267 (1999)

Note verbale dated 22 April 2003 from the Permanent Mission of Tunisia to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Tunisia to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) concerning Afghanistan and, with reference to his note verbale SCA/2/03(03) of 4 March 2003, has the honour to transmit herewith the report of Tunisia pursuant to Security Council resolution 1455 (2003) of 17 January 2003 concerning Afghanistan.

The Permanent Mission of Tunisia to the United Nations takes this opportunity to convey to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) concerning Afghanistan the renewed assurances of its highest consideration.



Annex to the note verbale dated 22 April 2003 from the Permanent Mission of Tunisia to the United Nations addressed to the Chairman of the Committee

[Original: Arabic]

Report on measures taken by Tunisia pursuant to Security Council resolution 1455 (2003) of 17 January 2003 relating to the combating of the terrorist activities of the Taliban and al-Qa'idah

The desire of Tunisia to keep up with the international endeavour to combat terrorism is strong. Tunisia was one of the first States to call for the eradication of anything that might lead to the spread of terrorism or its underlying motives and was swift to become a party to all twelve international conventions relating to the combating of this scourge.

Tunisia has transmitted its report on the implementation of Security Council resolution 1373 (2001) and has responded to the requests for clarification posed in that regard (supplementary report). It has also submitted its report on the implementation of Security Council resolution 1390 (2002). These reports set forth in detail all the measures and steps taken by the Tunisian authorities with regard to the prevention and suppression of terrorism and to combat the financing thereof, in accordance with the requirements of the relevant Security Council resolutions.

The enduring desire of Tunisia to combat terrorism is evident in its commitment to the requirements of Security Council resolution 1455 (2003) and previous resolutions calling upon all States to combat the terrorist activities being conducted by any member of the Taliban and al-Qa'idah or by any individuals, groups, undertakings and entities associated with the Taliban and al-Qa'idah.

With regard to the comprehensive summary of the frozen assets of persons and entities who are mentioned in the list, prepared by the Afghanistan Sanctions Committee and updated by Security Council resolution 1267 (1999) and who are present in the territory of Member States, all banks in Tunisia have been informed of the relevant Security Council resolutions and are provided with any updates of the list of entities and persons targeted by freeze measures. The Financial Market Council has adopted the same measures with regard to stockbrokers. The banks have also been requested to take the necessary steps to freeze funds, financial assets and resources in their possession that belong to such persons and entities and to notify the authorities concerned whenever taking such steps. The Central Bank of Tunisia conducts the necessary investigations with a view to the adoption of these measures.

It should be noted that, to date, these investigations have not revealed anything pointing to the existence of any funds, financial assets or resources on hand in the Tunisian banking system or with stockbrokers that might belong to the persons or entities identified in the list.

The steps taken by Tunisia in implementation of the measures referred to in paragraph 1 of Security Council resolution 1455 (2003), subsequent to submission of its report dated 8 May 2002 on the implementation of resolution 1390 (2002), are as follows.

Following the recent ratification by Tunisia of the International Convention for the Suppression of the Financing of Terrorism and the Convention against Transnational Organized Crime and in view of the firm organic link between methods of financing terrorist activity and methods of laundering the proceeds of serious crimes, the Chamber of Deputies decided to redraft the national anti-terrorism bill, mentioned previously in Tunisia's report on the implementation of Security Council resolution 1390 (2002). The new text includes provisions concerning the prevention of money-laundering offences, the suppression of illegal financial methods and the combating of the financing of terrorism, as well as provisions relating to terrorism and its suppression.

A general and comprehensive anti-terrorism law will be promulgated once it has passed through the first phase in the highest State legislative authorities (the Chamber of Deputies and the Constitutional Council) and will, in the coming few weeks, take final form and include the following:

- A first chapter, on support for the international endeavour to combat terrorism;
- A second chapter, on the prevention and suppression of money-laundering;
- A third chapter, containing common provisions on the financing of terrorism and money-laundering.

These provisions include principles of security and minimum accounting which all legal persons, organizations and structures must adopt in order to prevent the use of such persons as a cover for the financing of individuals, organizations or activities related to terrorist crimes or for the laundering of the proceeds of offences deemed by the law to be of a serious or less serious nature, even if not committed in Tunisia.

Mechanisms for that purpose have been authorized, such as the establishment of a Tunisian framework for financial analysis the functions of which include the monitoring of procedures and dubious or unusual transactions suspected of being linked to the financing of terrorist activities.

The bill also contains two regulations for freezing dubious or unusual transactions, the former on the basis of a permit and the latter on the basis of a court order.